

SCENE 1

[NARRATOR (SEAN)] Scene 1: Members of the community give their heartfelt public comments to the Oregon Health Authority about the implementation of M110 and the fate of the measure.

CHARACTERS:

- Community member 1: Alexis
- Community member 2: Sara
- Community member 3: Ed
- OHA 1: Ben
- OHA 2: Judge Troy

SCENE:

BEN: Welcome to the public comment session scheduled for today February 1, 2024 to hear from the public about Measure 110 in light of the bill that will be considered this legislative session. Please line up at the microphone if you want your voice heard on this important ballot initiative, for/against/or otherwise. Your comments will only be limited to 3 minutes.

JUDGE TROY: Before we get started, I'd like to remind everyone what M110 was intended to do and how popular it was with voters we don't lose sight of the big picture here so let's watch this video OPB circulated during the election cycle

[SLIDE 2 - NPR Video]

LAUREN: This is now the time for public comment. Please introduce yourself.

ALEXIS:

Hi, I'm Alexis and I am all for Measure 110. I helped canvas to get enough signatures to see this on the 2020 ballot, and in total we got 116,622 valid signatures. Myself, well I mean my friends, all benefit from this. Before this was on the ballot as M110, it was known as IP 44.

In essence, it sought to address the problem of substance abuse in Oregon with treatment rather than prison. This is not only "more effective and compassionate, but likely cost effective," as said by the Oregon Education Association in their Draft Ballot Comments in late 2019.

IP 44, now M110, is a health-based approach to drug addiction. M110 expands the availability of treatment and services for drug use/addiction through the creation of the "Drug Treatment and Recovery Services Fund." That fund feeds into existing community-based drug treatment and recovery services. I'm not sure how well it has helped to establish and expand these services and providers, but in theory it should get help in the areas where it is needed the most in Oregon.

My favorite part is the re-classification of penalties for personal low-level drug possession offenses, so we can get people into treatment and recover them from their addictions... rather than punishment.

Low-level personal possession offenses went from misdemeanors to Class E violations. That reduction to a violation does not disqualify people from obtaining or retaining their occupational or professional licenses, so these people can keep working! The penalties for the Class E

violation is only a maximum fine of \$100 (so you can just pay it), or people can opt in to get a health assessment at an Addiction Recovery Center, where they can access additional addiction and recovery services. For larger quantities in possession, felonies are reduced to Class A misdemeanors. Again, I'm not sure how well these centers have been established and how often people opt in for treatment, but the opportunity is there.

According to a Racial and Ethnic Impact Statement provided by the Oregon Criminal Justice Commission (CJC) in 2019, there were 2,139 misdemeanor convictions and 1,918 felony convictions for possession of controlled substances. They estimated a 91% reduction of these convictions with M110. This saves time for the courts too!

M110 reduces the fines that people have to pay, the time people spend in jail or prison, and gets them the opportunity to access treatment. Plus if you're in possession of just a small amount, you can just pay the \$100 fine and be on your way! The public health benefits here are infinite! Except maybe the unknowns of the treatment infrastructure, I don't see how anyone could see anything wrong with M110, let's keep it in place!

[walk offs and C2 steps up]

SARA:

Hi, my name is Sara Long, and I have supported Measure 110 since the start. I am currently a law student at Lewis & Clark and I work in the Criminal Justice Reform Clinic. I have seen firsthand how interactions with the criminal justice system are not only ineffective in addressing addiction and substance abuse issues, but cause substantial collateral consequences for folks, especially people from low income and BIPOC communities.

Prisons and jails were never meant to be treatment centers or healthcare providers, and they will never successfully function as such. That is an issue, because almost three million people with substance abuse disorders are incarcerated across the nation in any given year. A number of folks who use drugs and need care are arrested repeatedly and put in jail until finally something lands them in prison.

Incarceration is massively disruptive to a person's life, and a felony conviction on a person's record has long-lasting, sometimes lifelong, knock on effects. Some of the clients I work with at the Clinic have felony drug convictions on their record that have held them back in significant ways. Even after ten years out from a conviction, even after getting clean and sober, these people are unable to access safe and secure housing, find stable, legal employment, volunteer at their kids' schools or coach their kids' sports teams, and adopt or foster children, even those who are related to them. Measure 110 was meant to ensure that others have a better shot at getting clean and then living the kind of life we all deserve but frequently take for granted.

Incarceration also costs a ton of money. It costs taxpayers money. But it does not solve the problem. Measure 110 was meant to save Oregon money on incarceration and enforcement of criminal drug possession penalties. Combined with the surplus of marijuana sales, it should be

simple to fund new treatment and recovery grant programs that Oregonians desperately need if we actually try. Oregon is currently one of the worst states in the nation when it comes to access to addiction treatment. We want to be a leader in the country, a state that others look to as an example of empathy, compassion, and progress. Measure 110 was meant to help us achieve that, and it still can.

Importantly, services provided by centers financed through Measure 110 are required to meet certain criteria to ensure that people are treated with respect and in a way that recognizes their individual needs, both of which are crucial to successful recovery. Services are supposed to be evidence-informed, trauma-informed, culturally responsive, patient-centered, and non-judgmental, while focusing on harm reduction. These aspects are crucial and it would be deeply detrimental to the recovery prospects of our fellow Oregonians to gut Measure 110 and risk losing these standards of care.

Lastly, I want to touch on Measure 110's provision for the council I stand in front of tonight. There is a reason that those of you on the council are not just politicians and government officials - and that is because this is not merely a political issue. It is a humanitarian issue that requires input and guidance from a variety of professionals and community members. We have here tonight a Behavioral Health Services representative, members of communities that have been disproportionately impacted by the criminal justice system, physicians and social workers, people specializing in housing services for people with mental health conditions and/or substance use disorders, and people who have themselves suffered from substance abuse disorder. Your experience and knowledge is desperately needed as we see ever-increasing substance abuse related deaths and peoples' lives being upended bc of addiction. We have the chance right now to protect and expand something that is capable of making a big difference in a lot of Oregonians' lives, and the people of Oregon have already spoken. This is what we want to do and what we *need* to do.

Thank you for your time.

[walk offs and C3 steps up]

ED HILL:

Edward J. Hill speaking for the Coalition to Fix and Improve Ballot Measure 110

Ladies and Gentlemen, let me begin by reminding you of testimony offered just moments ago. The draft ballot title for IP 44, the precursor to Measure 10 was: "Decriminalizes personal, non-commercial possession of most drugs; establishes fund to create addiction recovery centers." I would suggest that this remarkably accurate ballot title unintentionally revealed the fatal flaw of Ballot Measure 110: it decriminalized first and funded later. The resulting disaster on the streets of the cities and towns of Oregon has become so undeniable that Governor Tina Kotek and I, who would have trouble agreeing that Christmas falls every year on December 25, both agree

that the decriminalizing provisions of Measure 110 must be legislatively reversed with urgency. Some voices on my side of the debate are arguing that possession of small amounts of dangerous street drugs should be classified as a Class A misdemeanor with penalties of up to one year in jail and a \$6,250 fine. Others have argued for the lesser Class C Misdemeanor with penalties of up to 30 days in jail and fines of up to \$1250.00. Well at this point I'm willing to just say potatoes, potatoes. Whatever the penalty, recriminalization must occur because the current violation alternative has been an abject failure.

Let's look at some numbers. The \$100.00 fine currently allowed by Measure 110 is less than the fine imposed for failure to use a turn signal. Cops know this and their apathetic response to this non-penalty is predictable. In Portland, Police have written approximately 2,500 Measure 110 citations a year, compared with the roughly 9,500 arrests they made annually in years before Measure 110. But what about the recovery and treatment hotline you ask? Surely this non-punishment device has been widely used by addicts grateful to be avoiding jail, right? WRONG! State auditors found that in the first 15 months after Measure 110 took effect, only 119 people called the state's 24-hour hotline. That meant the cost of operating the hotline amounted to roughly \$7,000 per call. The total number of callers as of early December 2023 had only amounted to 943.

But be fair, you say. Consider the unfortunate timing of Measure 110's passage so soon before Oregon's deadliest wildfire season, the COVID-19 pandemic, the protests following the murder of George Floyd and the explosion in the availability of cheap Mexican and Chinese fentanyl. Surely these disasters played a significant role in the outcome of the good intentions embodied in Measure 110. Well sure they did! But so did the fact that the Legislature, the court system, and the bureaucracy including the Oregon Department of Public Safety Standards and Training and the Oregon Health Authority under two governors ignored or rejected proposed solutions as straightforward as designing a specialized ticket to highlight treatment information. The state government declined to fund a proposed \$50,000 online course that would have instructed police officers on how to better use the new law. The state government took no action on recommendations to get police, whose leaders campaigned against the ballot measure, talking with treatment providers after decriminalization passed. In other words, Measure 110 did not create the 21st century zombie apocalypse because 58% of Oregon voters supported the measure. Rather, the disaster was caused in large measure by the state government's failure to heed the will of those voters.

The cost of this failure can be measured in body counts. In 2019, 280 people died of a drug overdose in Oregon. In 2020 the opioid overdose death toll rose 472. In 2021 it was up 738. In 2022, 956. And although the numbers are still being tallied, we are on pace to hit 1250 in 2023. Advocates for Measure 110 talk about compassion and harm reduction. Unfortunately, the death toll bespeaks malign neglect rising to the level of mass slaughter.

Ladies and gentlemen of the Oregon legislature, allow me to remind you that your leaders have come around to admit the failure that we have engineered with decriminalization. Senate Judiciary Committee Chair Floyd Prozanski is on record as saying, "Hindsight always gives you a better view of what has come before you." Senator Przanski has also said about decriminalization, "We're not ready for opening up this concept without building the infrastructure that's needed." In her turn, Senate Majority Leader Kate Lieber has gone on record

stating, "People need to be able to walk down the street and make sure people aren't using drugs in front of them." Well, yes, and yes. I urge you to listen to your leaders. And to give you an incentive to solve the problem on your own terms, my group has pledged to suspend our efforts to get a ballot measure before Oregon voters repealing Measure 110 entirely if you move forward with recriminalization.

Ladies and Gentlemen, Let me leave you today, not with the words of my hero Winston Churchill who said, "When you are going through hell, keep going," but rather with the cautionary words of the great American General Jack D. Ripper who said, "Today, war is too important to be left to politicians. They have neither the time, the training, nor the inclination for strategic thought. I can no longer sit back and allow Communist infiltration, Communist indoctrination, Communist subversion, and the international Communist conspiracy to sap and impurify all our precious bodily fluids." Ladies and Gentlemen, I urge you to stand proud with General Ripper and even with those fleecy wearing, latte sipping freaks up in Seattle and vote for recriminalization. Thank you!

JUDGE TROY: That's all our time for today folks, thanks for the input!

[SLIDE 3 - Segue]

SCENE 2

[NARRATOR (SEAN)] Scene 2 - Three members of the Oversight and Accountability Council debrief after a long public forum, having just received some very blunt feedback from the community about M110's implementation thus far.

CHARACTERS:

- OAC 1 - Ben
- OAC 2 - Lauren
- OAC 3 - Judge Troy

SCENE:

BEN: Well that felt a little personal.

LAUREN: They do know we didn't write the bill, right?

JUDGE TROY: Well, at least we heard from a couple people that seemed to appreciate what we're doing, that last guy though, yikes.

BEN: I have some thoughts on how we can handle public forums in the future.

[SLIDE 4 - PARKS CLIP]

JUDGE TROY: We are tasked with overseeing the creation of the Behavioral Health Resource Networks in each county, and we're the ones that approve funding and oversee implementation of those programs... so it's not surprising that we're being held responsible by some.

LAUREN: There are legitimate criticisms that OHA didn't roll-out funding for treatment centers fast enough, and I think pretty much everyone agrees at this point that the infrastructure necessary to support this bill simply wasn't there.

BEN: OK sure, but a lot of these criticisms seemed to be directed at things way outside of our control.

LAUREN: People are legitimately concerned about what they perceive as a bad problem getting worse.

JUDGE TROY: Let's face it, this was an uphill battle from the beginning: before M110, Oregon consistently ranked among the worst in the nation for providing access to treatment centers, while having some of the highest homelessness and visible drug use and drug-related deaths. M110 may have unfairly been heralded as a panacea for all of these issues.

LAUREN: By passing M110, it's clear that the voters wanted to see if swapping rehab beds for jail cells would cause positive change in our community, but they did not take into account that our state just simply did not have the infrastructure to implement the underlying objectives of M110 right out the gate.

BEN: Don't forget that COVID hit within the first months after M110 passed. We were being asked to oversee the creation of health care resources for addiction recovery when our healthcare system was at capacity dealing with COVID.

JUDGE TROY: Or the unprecedented rise in fentanyl circulation.

LAUREN: Even with these obstacles, I still don't think the roll out of M110 was quite as bad as the public perception suggests. I'm curious to see how the public perception compares to the data. Ben, you mentioned you put something together?

BEN: I did indeed.

JUDGE TROY:.... you just made up a powerpoint about this exact topic on your free time?

Well that is convenient.

BEN: What can I say, I like powerpoints... (moving on)

First, it's important to understand people's perceptions of M110.

[SLIDE 5 - Perception]

LAUREN: Yeah that tracks with what we heard today and have been hearing for the past few years, but are any of those criticisms supported by the data?

Ben:

[SLIDE 6 & 7 - Data on CJ & Public Safety]

JUDGE TROY: So in large part the perceptions that M110 resulted in an increase in crime and a lack of public safety are exaggerated, or at the very least unclear.

LAUREN: Well OK, so measuring M110 by looking at impact on criminal justice isn't very clear. What other metrics are there to look at to see if M110 was able to accomplish any of its stated objectives?

JUDGE TROY: Decriminalization was only one part of what M110 was about, and a small one at that. Let's talk about what we - the Oversight and Accountability Council - were able to do since the measure passed?

[SLIDE 8 - OHA Report]

LAUREN: so there were indicators that M110 was having a positive impact despite the pandemic and these timing challenges?

BEN: Buds that hadn't yet flowered, Lauren.

JUDGE TROY: OK, so we're awesome, despite the haters that would suggest otherwise. But we can't forget about that pesky audit.

[SLIDE 9 & 10 - Audit]

LAUREN: That was a lot of data Ben, I'm sure glad you love making powerpoints.

BEN: Thanks Lauren, I do enjoy creating powerpoints, it's fun, keeps me sharp, and it's definitely not because I'm a 20 bar number in a group of judges, partners, and shareholders.

JUDGE TROY: Well, it actually seems like M110, despite significant roll-out and timing challenges, was effecting positive change. I sure hope the legislature doesn't toss the baby out with the bathwater on this one.

[SLIDE - SEGUE]

SCENE 3

[NARRATOR/SEAN] Scene 3 - Another month has gone by. Three coffee-riddled and stressed-out advisors to the all-powerful Governor Kotek fret behind the scenes, considering how each potential move may spell glory or gloom for her legacy.

CHARACTERS:

- Advisor 1: Garfield
- Advisor 2: Le
- Advisor 3: Kauffman

LE: Oregon has always been a leader in drug policy. We were one of the first states to enact a medical marijuana program back in 1998, for example. What should the governor's office be considering as we look to the future?

KAUFFMAN: Well, aren't many drugs that M110 made legal supposed to be illegal under federal law? Don't we have to consider that?

[SLIDE 12 - What Role Does Fed. Drug Law Play?]

GARFIELD: Yes, since 1970 the Controlled Substances Act has banned the manufacture, possession, and distribution of many drugs. Sometimes that can affect state laws, such as the Oregon Supreme Court's ruling that federal law preempts state law to the extent it authorizes the use of medical marijuana.

KAUFFMAN: So doesn't that answer the question? Won't federal law always control?

GARFIELD: No—preemption in this area is very narrow, and there is a difference between specifically authorizing the use of a federally controlled substance on the one hand, and simply decriminalizing or imposing penalties that differ from federal law on the other.

[SLIDE 13 - Federal Preemption]

In fact, the Controlled Substances Act itself says that federal law is not intended to occupy the field, and preempts only where there is a positive conflict with state law. We also have to consider that the Tenth Amendment does not allow the federal government to require a state to enact federal policies into state law or require a state to enforce federal law.

LE: So the upshot is that Oregon is free to craft its drug policies so long as they don't create a direct conflict with federal law.

GARFIELD: That's right. So what are the broad policy issues here?

KAUFFMAN: The bottom line is that this is a law enforcement bill (“drug enforcement misdemeanors”). Many critics seriously doubt that increasing criminal sanctions will do anything to stem the tide of drug addiction and overdose cases in the short term, especially given the prevalence of fentanyl.

Will it succeed in moving drug use out of public view – that Depends on the level of police resources they are willing to devote to arrests and short-term detention, as well as willingness of individuals to attend/complete treatment.

GARFIELD: What are the political ramifications for the Governor?

[SLIDE 14 - Gov. Kotek]

KAUFFMAN: From a political standpoint, Kotek will most likely sign the bill into law. The question is whether the Governor can also make it a priority to, on a separate track, to push for the public health solutions at the heart of Measure 110? i.e. stay the course in implementing the public health-based solutions while placating law enforcement.

LE: What will be the impact on Governor Kotek’s legacy?

KAUFFMAN: From looking at more than 50 years of the war on drugs, our committee is highly skeptical that this bill is going to have a significant impact on addiction, given our state of emergency regarding the uncontrollable outbreak of fentanyl.

[SLIDE 15 - Short-Term Impact]

[Short-Term Impact]

1. Potential Positives

1. The governor will be seen as actively resolving the crisis and moving forward on such issues.
2. Tough on crime with a focus on “revitalizing” downtown and greater Portland areas.
3. Implementation of “deflection programs” in response to critics

2. Potential Negatives

1. The regressive policy demonstrates possible indecisiveness from the governor.
2. Progressives will view such actions as Placating law enforcement and their supporters who have convinced the public that Measure 110 is the root of all evil, rather than leading progressively.
3. At best will see a significant increase in drug arrests.
4. At worst will see no change
5. Deflection Program resources will take years to develop; as seen from Measure 110.

[SLIDE 16 - Long-Term Impacts]

[Long-Term Impact]

1. Likely not positive from a legacy standpoint unless also significantly contributes to public health solutions.
2. This could make re-election prospects slimmer if viewed as a lack of leadership capabilities from the Governor's Office.
3. Could greatly impede Oregon's overall drug reform - likely to create unhappy voters.

[SLIDE 17 - Segue]

SCENE 4

[NARRATOR/SEAN] Scene 4 takes us to the final act of our production, into an exchange between county counsel and county commissioners about the main features of HB 4002 and how it is anticipated to impact the County.

CHARACTERS:

- County Commissioner 1 - Sean
- County Counsel - Jen

[SLIDE 18 - Drug Enforcement Misd. Provisions, Deflection, Expungement]

SEAN: Good afternoon, everyone. Today, we have County Counsel here to discuss the key components of the recently-passed HB 4002 and their impacts on the County. Counsel, could you please start by explaining how HB 4002 changes the law around possession of a controlled substance in the County?

JEN: Certainly. This bill repeals M110's provisions that categorized PCS as a Class E violation. The bill recriminalizes possession of hard drugs, including fentanyl, meth, and heroin, as a "drug enforcement misdemeanor." The new unclassified misdemeanor carries a sentence of up to 180 days in jail.

County Commissioner 1 (SEAN): I've been hearing that even though the bill carries a potential 180 day sentence, the actual arrest, prosecution, and jail time may be extremely varied. What can you tell us about how charging and sentencing will work under this bill?

County Counsel 1 (JEN): That's right. The system created by HB 4002 is complex, but like M110, HB 4002 prioritizes treatment. People found with drugs can be charged with a crime, but there will be multiple paths they might take or be offered to avoid conviction. The most prominent pathway is called a deflection program. The bill explicitly encourages law enforcement agencies and district attorneys, in lieu of arrest or prosecution, to refer or divert a person to a deflection program.

County Commissioner 1 (SEAN): So, what is a deflection program?

County Counsel 1 (JEN): Good question. In essence, deflection programs are supposed to allow police to direct people with drug problems away from jail and into treatment. The actual definition in the bill is: a collaborative program between law enforcement and behavioral health systems that assists individuals who may have substances use disorder, another behavioral health disorder, or co-occurring disorders, to create community-based pathways to treatment, recovery support services, housing, case management, or other services. So, deflection programs must include collaboration between behavioral health services, police and prosecutors.

But deflection programs are optional. The bill allows counties to determine how the deflection program will work in their communities. Counties will create their own deflection programs and police and prosecutors can choose to participate in them. So far, 23 counties have signed letters committing to create deflection programs. But it's not clear yet what kind of programs and policies they might create, and how different they may be from county to county. Again,

counties that choose to participate will create a way for police to route people caught with drugs to service providers, rather than to jail and the court system. Prosecution, conviction, and jail time are meant to serve as incentives to move people toward treatment. In practice, police will likely issue misdemeanor citations to people with a small amount of street drugs and order them to appear in court at a later date. Depending on a county's resources, police may offer the person immediate help. Or the person will be steered toward treatment when they show up in court. If the person follows through, the citation would be expunged

County Commissioner 1 (SEAN): So, if we don't yet know what deflections programs will look like from county to county, does the bill at least tell us what it means to successfully complete a deflection program?

County Counsel 1 (JEN): The bill doesn't actually say how success in a deflection program is measured. Actual engagement in treatment seems to be the goal, but it's entirely unclear how counties may define success.

County Commissioner 1 (SEAN): Ok, so what if someone enters a deflection program, but isn't successful (assuming we eventually know how success is defined)? Then what?

County Counsel 1 (JEN): Some people may cycle through deflection without improvement. And some counties may opt not to adopt deflection programs at all. In those cases, people would face arrest or a misdemeanor citation with an order to appear in court at a future date -- but without the offer of treatment involved in the deflection approach. Under HB 4002, anyone who is not successful in deflection is still eligible for what's known as a conditional discharge. In fact, HB4002 requires a court, at the request of a person charged with drug possession to defer proceedings and place the person on probation.

Some of the requirements for entry into and terms of a conditional discharge agreement include:

- That the person request to enter into the agreement no later than 30 days after the person's first appearance, absent good cause
- An initial term of probation of 12-months and up to 30 days jail may be imposed as a sanction upon if terms of probation are violated.
- Imposition of general conditions of probation and a requirement that the defendant complete a substance abuse evaluation and treatment.

County Commissioner 1 (SEAN): Much was made of M110's \$100 fines. Are fines still an option under the new bill?

County Counsel 1 (JEN): No, the bill prohibits a court from imposing any fines or fees for a conviction for a drug enforcement misdemeanor PCS. The bill does allow for citations for the new misdemeanor to allow a person to appear in court 30 days after the date the citation was issued to allow the person to participate in a deflection program.

County Commissioner 1 (SEAN): I'm not entirely sure I'm clear on the sentences a court can impose under the new bill.

County Counsel 1 (JEN): It looks like this:

- A term of imprisonment of up to 180 days upon the request of the defendant; or
- If a straight jail sentence is not imposed, the court will suspend imposition of sentence and impose up to 18 months probation without jail time. Probation can be extended beyond 18 months by agreement of the probationer but may not exceed 5 years.
- If the person violates probation, structured jail sanctions may be imposed by agreement of the defendant or by order of a court, up to a total of 30 days jail. Any term of incarceration must allow for early release to a treatment facility.
- For serious probation violations, a judge can revoke propagation and impose a jail term of up to 180 days in jail. Even then, someone serving jail time can request early release to an inpatient or outpatient drug and alcohol treatment program, but if they violate the terms of their release, they'll go back to jail to serve out the remainder of the six-month term.

County Commissioner 1 (SEAN): : Alright, so there are a lot of paths someone might take to avoid arrest, prosecution or conviction. If a person is successful on one of those paths, what does the bill offer in terms of expungement?

County Counsel 1 (JEN) The bill requires the sealing or expungement after successful completion of a deflection program, conditional discharge, or completion of probation, or three years from the date of conviction.

Commissioner 2 (SAM): So back to this deflection program.... For counties opting into the program, does the bill offer any financial support?

Counsel 2 (JEREMY): It does. The bill establishes the Oregon Behavioral Health Deflection Program. This is a grant program administered by the CJC.

[SLIDE 19 - Oregon Behavioral Health Deflection Program]

CM2 (SAM): The CJC?

Attorney 2 (JEREMY): That would be the state Criminal Justice Commission. And actually it's not the Commission proper that will award these grants, but rather the Improving People's Access to Community-based Treatment, Supports and Services Grant Review Committee within CJC.

CM2 (SAM): Excuse me? The Improving Access to People's what?

Attorney 2 (JEREMY): It might be easier to refer to this body as the IMPACTS Grant Review Committee. During a grant application period established by this committee, it will award grants to counties and tribes opting into the deflection program.

CM2 (SAM): That certainly makes our decision to adopt a deflection program easier. How much can each applicant get?

Attorney 2 (JEREMY): For counties, the proportion of available grant funds is determined based on a formula share employed by the Oversight Accountability Council originally created

by Measure 110, but is no less than \$150,000 for any one applicant. The committee decides how much tribal applicants receive without any reference to a formula.

CM2 (SAM): And has the legislature actually funded this program? How much is available if so?

Attorney 2 (JEREMY): Yes, thankfully there will be funding behind the program. In a House Bill 5204, the legislature appropriated \$20.7 million to the program for the balance of the 2023-25 biennium.

CM2 (SAM): Sounds like a start.

Attorney 2 (JEREMY): I don't disagree, Member _____.

CM2 (SAM): Anything else of fiscal interest in HB 4002?

[SLIDE 20 - Jail Based Medications for Opioid Use Disorder]

Attorney 2 (JEREMY): There is. The bill also creates the Jail-Based Medications for Opioid Use Disorder Grant Program. This is another grant program that will be housed in the Criminal Justice Commission.

CM2 (SAM): And will the IMPACTS Grant Review Committee administer the grants like the program?

Attorney 2 (JEREMY): No, this one will be administered directly by the CJC.

CM2 (SAM): Who's eligible for these grants and what do they pay for?

Attorney 2 (JEREMY): Any city or county operating a local correctional facility and any tribe operating a tribal facility. There are several eligible uses of grant funds, all revolving around opioid treatment for persons in local or tribal custody.

CM2 (SAM): Such as?

Attorney 2 (JEREMY): Such as to (1) provide medication, telemedicine or any other reasonable treatment to persons in custody with an opioid use disorder. (2) Develop or operate mobile or nonmobile opioid treatment units. (3) Administer screenings for opioid use or risk of acute withdrawal. (4) Facilitate transition planning services for persons in custody who seek or receive opioid use disorder treatment. (5) And undertake any other actions reasonably calculated to mitigate operational or structural barriers to providing opioid use disorder treatment in local or tribal correctional facilities.

CM2 (SAM): And did the legislature likewise appropriate funds for this program as well?

Attorney 2 (JEREMY): It did, in the same House Bill 5204. In this case \$10 million for the 2023-25 biennium.

CM2 (SAM): Thank you for these answers, counsel. Are there any other features of the bill that the Commission should be aware of?

[SLIDE 21 - Other Provisions of 4002]

County Counsel 2 (JEREMY): Yes, there are, though unlike the bill's creation of a new possession misdemeanor and its deflection program framework, most of these features will only indirectly affect the County.

Before I get to that, the Commission should know that the provisions of the bill recriminalizing possession and establishing the new sentencing, supervision, and expungement frameworks will not be operative until September 1 of this year and would only apply to conduct occurring on or after that date.

Beyond that, the law does several other things that may be of interest to the Commission.

First, the law contains provisions relating to data collection and further study of specific issues.

- For example, the bill requires the CJC to collect and analyze certain data concerning deflections, arrests, charges, and convictions for the purpose of tracking racial and other demographic disparities in enforcement of the new possession charge. Beginning in August 2025, the CJC must provide an annual report to the legislature's judiciary committees with an analysis of any racial or other demographic disparities in enforcement.
- The bill also requires the CJC to establish a statewide system for tracking "meaningful" data concerning deflection program outcomes, including connections to social services and criminal justice system avoidance, and "other data deemed relevant that is timely and easily accessed to inform best practices and improve outcomes for individual [deflection] program participants." Using this data, the CJC must determine best practices for deflection programs and make funding recommendations regarding deflection programs.

Next, in the best tradition of Oregon politics, the bill establishes a number of committees and task forces responsible for coming up with further recommendations.

- The bill creates a 26-member Joint Task Force on Regional Behavioral Health Accountability. The task force is required to develop recommendations to improve collaboration and accountability across federal, state, and local behavioral health and substance use disorder treatment programs; ensure equitable outcomes in publicly-supported treatment settings; and establish broad access to methadone and other opioid use disorder medications.
- The bill also creates a 17-member Task Force on Improving the Safety of Behavioral Health Workers to produce a set of recommendations on, you guessed it, improving the safety of behavioral health workers. The task force must make policy recommendations to the legislature by December of this year.

Finally, the bill establishes a certified community behavioral health clinic program within the Oregon Health Authority. Community behavioral health clinics are a relatively new care model and, according to OHA, “they provide the comprehensive array of services that are necessary to create access, stabilize people in crisis, and provide the necessary treatment for those with the most serious, complex mental illnesses and addictions. The clinics also integrate additional services to ensure an approach to health care that emphasizes recovery, wellness, trauma informed care, and physical-behavioral health integration.” As part of the new program created by HB 4002, OHA will certify eligible community behavioral health clinics and the OHA director must appoint a 15-member committee to advise on the adoption of rules governing certified community behavioral health clinics.

County Commissioner 2 (SAM): Thank you, counsel.

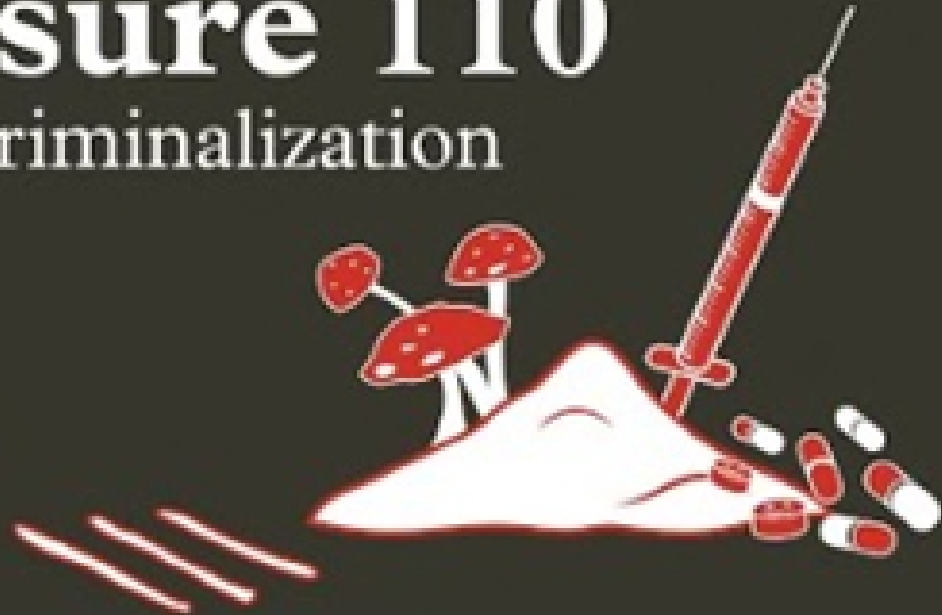
Measure 110

How Has It Worked So Far?

Measure 110 - Explained by OPB

measure 110
drug decriminalization

ELECTION
2020
NOV



Segues are weird...



Proposed Response to Public Comments/Criticism:



Negative Perceptions About M110's Implementation Thus Far

- Law enforcement feels 'handcuffed.'
- Rise in crime.
- Increase in public drug use.
- More drug deaths.
- Removes accountability.

Reality: What Does the Data Tell Us?

Examining the Multifaceted Impacts of Drug Decriminalization on Public Safety, Law Enforcement, and Prosecutorial Discretion.

- Data provided by Mark Leymon, head of Criminology Dept. at PSU
- Research conducted by PSU Dept. of Criminology & Criminal Justice in preparation for Oregon Legislative Session (2024), with funding through grant awarded by NIJ, U.S. DOJ.

1. Key Findings Related to the Criminal Justice System:

PCS Arrests:

- Already declining prior to M110; that trend continued after M110 implementation.

PCS Charges:

- Already declining prior to M110; PCS used as pretext less frequently.

Drug Court Enrollment:

- Already declining prior to M110; that trend continued after M110 implementation. Courts are an inadequate solution/conduit for moving people into treatment.

Reality: What Does the Data Tell Us?

2. Key Findings Related to Public Safety:

Violent Crime Rate:

- M110 had negligible impact on violent crime rates.

Property Crime:

- Slight uptick in property crime, which may be explained by broader trends.

Drug overdoses:

- Significant upward trend began during COVID-19 and persists today.

Reality: What Does the Data Tell Us?

Oregon Health Authority - Measure 110 Data Report, Quarters 1 and 2.

- Oregon Health Authority summary of quarterly data reports regarding operational reporting, expenditures, key demographic information, and narrative summaries for each of the statewide M110 service networks.
- Data includes Quarters 1 and 2 (July 1, 2022 - Dec 31, 2022).
- Behavioral Health Resource Networks throughout Oregon (1/county) are required to provide data.

1. BHRN Reporting Process: client counts and quality of engagement.

- 42 BHRN's created statewide across all 36 counties = at least 1 low-barrier network at no cost to prospective clients in each county.
- Client engagement by the numbers: significant increase over year-long period across all categories.
- Engagement according to providers (narrative):
 - Main successes: strengthened partnerships, expanded services.
 - Main challenges: insufficient support, resources.

Reality: What Does the Data Tell Us?

OHA - Challenges in Data Reporting (Response to Secretary of State/Oregon Audit Division's Audit of OHA and the Implementation of M11o)

Audit Findings (December, 2022):

- Grant and data limitations may stymie effective assessment and public support.
- Program governance needs improvement.
- Delivery of MH/SUD services are too siloed/fragmented.

OHA / OAC Response:

- Short timeframe for big changes
- Data collection snafus

Reality: What Does the Data Tell Us?

Fast forward roughly 1 year:

Funding and Delivery of Measure 11o SUD Services Shows Progress, but Significant Risks Remain - Oregon Secretary of State; Oregon Audits Division (December, 2023)

- OAC approved BHRN grants and expanded services & access to Oregonians.
- OAC prioritized cultural competence among grantees, likely reducing inequities in access.
- BHRN increased spending and clients served, but data shows significant limitations.
- Better data on service/administrative/funding side is required.
- Data collection and analysis efforts remain inadequate to examine M110's effectiveness.



What Role Does Federal Drug Law Play?

I. Controlled Substances Act, 21 U.S.C. § 801, et seq.

Federal law prohibiting manufacture, possession, and distribution of many drugs.

- “The main objectives of the CSA were to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances.” *Gonzales v. Raich*, 545 U.S. 1 (2005).

I. Emerald Steel Fabricators, Inc. v. BOLI, 348 Or. 159 (2010)

- “Affirmatively authorizing a use that federal law prohibits stands as an obstacle to the implementation and execution of the full purposes and objectives of the Controlled Substances Act.”
- “To the extent that [Oregon law] affirmatively authorizes the use of medical marijuana, federal law preempts that subsection”

Federal Preemption

I. CSA expressly disclaims preemption of state law unless “positive conflict”

- No provision of this subchapter shall be construed as indicating an intent on the part of Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together. 21 U.S.C. § 903.

I. Tenth Amendment: Anti Commandeering Principle

- The federal government may not force states to enact laws, or require state officers to assist the federal government in enforcing its own laws.

E.g., Printz v. United States, 521 U.s. 898 (1997); *New York v. United States*, 505 U.S. 144 (1992).



LEGACY

Governor's Legacy

[Short-Term Impact]

I. Potential Positives

- a. The governor will be seen as actively resolving the crisis and moving forward on such issues.
- b. Tough on crime with a focus on “revitalizing” downtown and greater Portland areas.
- c. Implementation of “deflection programs” in response to critics

II. Potential Negatives

- a. The regressive policy demonstrates possible indecisiveness from the governor.
- b. Progressives will view such actions as Placating law enforcement and their supporters who have convinced the public that Measure 110 is the root of all evil, rather than leading progressively.
- c. At best will see a significant increase in drug arrests.
- d. At worst will see no change
- e. Deflection Program resources will take years to develop; as seen from Measure 110.

Governor's Legacy

[Long-Term Impact]

- a. Likely not positive from a legacy standpoint unless also significantly contributes to public health solutions.
- b. This could make re-election prospects slimmer if viewed as a lack of leadership capabilities from the Governor's Office.
- c. Could greatly impede Oregon's overall drug reform - likely to create unhappy voters.



Drug Enforcement Misdemeanor Provisions, Deflection Programs, & Expungement

- Penalizes drug possession as an entirely new misdemeanor with penalties of up to 180 days in jail.
- Current Class E violations, established under Measure 110, would be repealed and become unclassified drug enforcement misdemeanors as of Sept. 1. A defendant would first face 18 months of probation. Probation violations would result in 30 days of jail. If probation is revoked, a defendant could be released to drug treatment and receive conditional discharge if they complete treatment, or face a 180-day sentence.
- Counties have been asked to commit to offering deflection and diversion programs; 23 of 36 counties have signed letters of commitment so far.
- Records could be expunged upon completing a deflection program, two years after a citation without convictions, after successful probation, or three years after conviction.

Oregon Behavioral Health Deflection Program

- **Administered by IMPACTS Grant Review Committee within CJC**
- **Counties and tribes are eligible applicants**
- **Counties receive formula share, minimum of \$150k**
- **Tribes' share determined by Review Committee**
- **\$20.7M appropriated to program**

Jail-Based Medications for Opioid Use Disorder Grant Program

- **Administered directly by CJC**
- **Eligible applicants: Counties, cities and tribes operating detention facilities**
- **Eligible uses: medication, telemedicine, opioid treatment units and more**
- **\$10M appropriated to program**

Other Provisions of HB 4002

- **Data Collection and Analysis**
 - Oregon Criminal Justice Commission
 - Racial disparities in enforcement of new PCS misdemeanor
 - Statewide outcomes for deflection programs and best practices
- **More Task Forces!**
 - Task Force on Regional Behavioral Health Accountability
 - Task Force on Improving the Safety of Behavioral Health Workers
- **Certified Community Behavioral Health Program**
 - Oregon Health Authority
 - Certification, rulemaking, and oversight

References

1. Public testimony (citizen): <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/PublicTestimonyDocument/8419>
2. Public testimony (Justice Advocates): <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/PublicTestimonyDocument/9112>
3. Public testimony (Bernie PDX): <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/PublicTestimonyDocument/9141>
4. Public testimony (Lewis & Clark CJRC): <https://law.lclark.edu/live/news/48845-students-alum-reflect-on-the-black-oregonian>
5. Henderson, Kelsey S.; Campbell, Christopher; and Renauer, Brian, "Key Points in Preparation for Oregon Legislative Session (2024): Examining the Multifaceted Impacts of Drug Decriminalization on Public Safety, Law Enforcement, and Prosecutorial Discretion" (2023). Criminology and Criminal Justice Faculty Publications and Presentations. 118. https://pdxscholar.library.pdx.edu/ccj_fac/118.
6. Henderson, Kelsey S.; Campbell, Christopher M.; and Renauer, Brian, "Impacts of Successive Drug Legislation Shifts: Qualitative Observations from Oregon Law Enforcement [Interim Report: Year One]" (2023). Criminology and Criminal Justice Faculty Publications and Presentations. 114. https://pdxscholar.library.pdx.edu/ccj_fac/114
7. Lenahan K, Rainer S, Baker R, Goren R, and Waddell, EN. (Updated January 27, 2023). *Oregon Substance use Disorder Services Inventory and Gap Analysis*. OHSU-PSU School of Public Health, Oregon Health and Sciences University, Oregon Alcohol and Drug Policy Commission, and Oregon Health Authority, Health Systems Division and Public Health Division.
8. Fitzgerald J, Schmidt M. *Analysis of Oregon's Publicly Funded Substance Abuse Treatment System: Report and Findings for Senate Bill 1041*. (September, 2019). Oregon Criminal Justice Commission. <https://www.oregon.gov/cjc/CJC%20Document%20Library/SB1041Report.pdf>.
9. Oregon legislature HB 4002 staff measure summary - <https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureAnalysisDocument/82318>
10. Oregon legislature HB 4002 fiscal impact statement - <https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureAnalysisDocument/82316>

A-Engrossed House Bill 4002

Ordered by the House February 28
Including House Amendments dated February 28

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Joint Interim Committee on Addiction and Community Safety Response for Representative Jason Kropf, Senator Kate Lieber)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes changes to laws to make it easier to get treatment for substance use problems. The Act changes drug laws. The Act takes effect when the Governor signs it. (Flesch Readability Score: 87.1).

[Digest: The Act requires the OHA to study the problems in this state caused by drug use and to send a report on its findings to the legislature. The section is repealed on January 2, 2026. (Flesch Readability Score: 63.3).]

[Requires the Oregon Health Authority to study Oregon's addiction crisis. Directs the authority to submit findings to the interim committees of the Legislative Assembly related to health not later than September 15, 2025.]

[Sunsets January 2, 2026.]

Prohibits insurers from requiring prior authorization or other utilization review for coverage of substance use disorder medications. Specifies exceptions.

Requires coordinated care organizations to provide to members medications for treatment of opioid use disorder and any co-occurring substance use disorder or mental health condition.

Prohibits coordinated care organizations and public payers of health insurance from requiring prior authorization for medication-assisted treatment.

Allows pharmacists to prescribe and dispense early refills of medication for opioid use disorder under specified conditions. Allows pharmacists to have on-site prescription drug lockers without obtaining a license or registration from the State Board of Pharmacy.

Requires coordinated care organizations to have adequate networks of addiction treatment providers.

Directs the Alcohol and Drug Policy Commission to conduct a study related to access to opioid use disorder treatment and interventions. Requires commission to report recommendations to Legislative Assembly to address barriers to accessing opioid use disorder treatment and interventions.

Establishes a certified community behavioral health clinic program in the Oregon Health Authority and specifies the requirements for the program.

Establishes the Joint Task Force on Regional Behavioral Health Accountability to make recommendations to the Legislative Assembly to improve the governance of behavioral health systems and strengthen evidence-based and equitable funding decisions and accountability of behavioral health systems. Sunsets January 2, 2026.

Establishes the Task Force on Improving the Safety of Behavioral Health Workers to make recommendations to the Legislative Assembly to address the safety concerns that are prevalent in the behavioral health industry. Sunsets January 2, 2026.

Establishes the United We Heal Medicaid Payment Program in the authority to provide supplemental medical assistance payments to behavioral health providers to enable the providers to access enhanced apprenticeship and training programs and opportunities by participating in a labor-management training trust.

Modifies the definition of "delivery" for purposes of the Uniform Controlled Substance Act. Increases presumptive sentences when unlawful delivery of a controlled substance occurs in specified locations.

Increases penalties for unlawful possession of a controlled substance on September 1, 2024. Designates crime as a drug enforcement misdemeanor and specifies sentence. Creates a new form of conditional discharge for drug enforcement misdemeanors and establishes processes for sealing records related to the crime.

Establishes the Oregon Behavioral Health Deflection Program consisting of grants awarded to fund deflection programs.

Directs the Oregon Criminal Justice Commission to track data including arrests and prosecutions for possession and delivery crimes and data concerning deflection program

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.

outcomes.

Increases the number of hours a person can be held in a facility when admitted to the facility due to intoxication or being under the influence of controlled substances. Authorizes members of a mobile crisis intervention team to take a person to a sobering facility or appropriate facility. Modifies immunity from civil and criminal liability for certain persons involved in the provision of treatment.

Establishes the Oregon Jail-Based Medications for Opioid Use Disorder Grant Program. Declares an emergency, effective on passage.

A BILL FOR AN ACT

Relating to the addiction crisis in this state; creating new provisions; amending ORS 51.050, 133.060, 135.050, 135.753, 137.225, 137.300, 153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 221.339, 316.502, 414.609, 414.766, 419C.370, 423.478, 423.483, 423.525, 430.234, 430.384, 430.389, 430.392, 430.399, 430.401, 431A.463, 475.005, 475.235, 475.245, 475.752, 475.814, 475.824, 475.834, 475.854, 475.874, 475.884, 475.894, 475.900, 670.280, 689.005, 743A.168, 750.055 and 750.333; repealing ORS 153.043, 153.062, 293.665, 305.231, 419C.460 and 475.237; and declaring an emergency.

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

BEHAVIORAL HEALTH

(Payment for Substance Use Disorder Treatment)

SECTION 1. Section 2 of this 2024 Act is added to and made a part of ORS chapter 743A.

SECTION 2. (1) As used in this section:

- (a) "Group health insurance" has the meaning given that term in ORS 731.098.
- (b) "Health benefit plan" has the meaning given that term in ORS 743B.005.
- (c) "Substance use disorder" has the meaning given that term in the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(d) "Utilization review" has the meaning given that term in ORS 743B.001.

(2) Notwithstanding any provision of ORS 743A.168, an issuer of group health insurance or an individual health benefit plan, other than a health plan that is subject to 42 U.S.C. 18011:

(a) May not impose a requirement for prior authorization or any other form of utilization review for the reimbursement of a covered medication approved by the United States Food and Drug Administration that is prescribed for the purpose of treating a substance use disorder, including but not limited to opioid addiction and opioid withdrawal.

(b) Shall reimburse the cost of refills of medications described in paragraph (a) of this subsection if dispensed by a licensed health care professional who is legally authorized to dispense such medications, including early refills described in section 7 of this section.

(3) Subsection (2) of this section applies to any form of buprenorphine, including but not limited to sublingual, tablet or injectable forms.

(4) This section does not prohibit prior authorization or other utilization review for opioids or opiates prescribed for a purpose other than medication-assisted treatment or the treatment of opiate abuse or addiction.

(5) This section does not prohibit utilization review for the purpose of:

- (a) Auditing claims for improper payments, fraud or abuse; or
 - (b) Reasonable periodic redeterminations about the need for continuing care.
- (6) Coverage under this section may be subject to the same terms and conditions that

1 **apply to other benefits under the plan except for utilization review as provided in subsection**
2 **(2) of this section.**

3 **(7) This section is exempt from ORS 743A.001.**

4 **SECTION 3.** ORS 743A.168 is amended to read:

5 743A.168. (1) As used in this section:

6 (a) "Behavioral health assessment" means an evaluation by a provider, in person or using tele-
7 medicine, to determine a patient's need for behavioral health treatment.

8 (b) "Behavioral health condition" has the meaning prescribed by rule by the Department of
9 Consumer and Business Services.

10 (c) "Behavioral health crisis" means a disruption in an insured's mental or emotional stability
11 or functioning resulting in an urgent need for immediate outpatient treatment in an emergency de-
12 partment or admission to a hospital to prevent a serious deterioration in the insured's mental or
13 physical health.

14 (d) "Facility" means a corporate or governmental entity or other provider of services for the
15 treatment of behavioral health conditions.

16 (e) "Generally accepted standards of care" means:

17 (A) Standards of care and clinical practice guidelines that:

18 (i) Are generally recognized by health care providers practicing in relevant clinical specialties;
19 and

20 (ii) Are based on valid, evidence-based sources; and

21 (B) Products and services that:

22 (i) Address the specific needs of a patient for the purpose of screening for, preventing, diagnos-
23 ing, managing or treating an illness, injury or condition or symptoms of an illness, injury or condi-
24 tion;

25 (ii) Are clinically appropriate in terms of type, frequency, extent, site and duration; and

26 (iii) Are not primarily for the economic benefit of an insurer or payer or for the convenience
27 of a patient, treating physician or other health care provider.

28 (f) "Group health insurer" means an insurer, a health maintenance organization or a health care
29 service contractor.

30 (g) "Median maximum allowable reimbursement rate" means the median of all maximum allow-
31 able reimbursement rates, minus incentive payments, paid for each billing code for each provider
32 type during a calendar year.

33 (h) "Prior authorization" has the meaning given that term in ORS 743B.001.

34 (i) "Program" means a particular type or level of service that is organizationally distinct within
35 a facility.

36 (j) "Provider" means:

37 (A) A behavioral health professional or medical professional licensed or certified in this state
38 who has met the credentialing requirement of a group health insurer or an issuer of an individual
39 health benefit plan that is not a grandfathered health plan as defined in ORS 743B.005 and is oth-
40 erwise eligible to receive reimbursement for coverage under the policy;

41 (B) A health care facility as defined in ORS 433.060;

42 (C) A residential facility as defined in ORS 430.010;

43 (D) A day or partial hospitalization program;

44 (E) An outpatient service as defined in ORS 430.010; or

45 (F) A provider organization certified by the Oregon Health Authority under subsection (9) of this

1 section.

2 (k) "Relevant clinical specialties" includes but is not limited to:

3 (A) Psychiatry;

4 (B) Psychology;

5 (C) Clinical sociology;

6 (D) Addiction medicine and counseling; and

7 (E) Behavioral health treatment.

8 (L) "Standards of care and clinical practice guidelines" includes but is not limited to:

9 (A) Patient placement criteria;

10 (B) Recommendations of agencies of the federal government; and

11 (C) Drug labeling approved by the United States Food and Drug Administration.

12 (m) "Utilization review" has the meaning given that term in ORS 743B.001.

13 (n) "Valid, evidence-based sources" includes but is not limited to:

14 (A) Peer-reviewed scientific studies and medical literature;

15 (B) Recommendations of nonprofit health care provider professional associations; and

16 (C) Specialty societies.

17 (2) A group health insurance policy or an individual health benefit plan that is not a grandfa-
18 thered health plan providing coverage for hospital or medical expenses, other than limited benefit
19 coverage, shall provide coverage for expenses arising from the diagnosis of behavioral health con-
20 ditions and medically necessary behavioral health treatment at the same level as, and subject to
21 limitations no more restrictive than, those imposed on coverage or reimbursement of expenses aris-
22 ing from treatment for other medical conditions. The following apply to coverage for behavioral
23 health treatment:

24 (a) The coverage may be made subject to provisions of the policy that apply to other benefits
25 under the policy, including but not limited to provisions relating to copayments, deductibles and
26 coinsurance. Copayments, deductibles and coinsurance for treatment in health care facilities or
27 residential facilities may not be greater than those under the policy for expenses of hospitalization
28 in the treatment of other medical conditions. Copayments, deductibles and coinsurance for outpa-
29 tient treatment may not be greater than those under the policy for expenses of outpatient treatment
30 of other medical conditions.

31 (b) The coverage of behavioral health treatment may not be made subject to treatment limita-
32 tions, limits on total payments for treatment, limits on duration of treatment or financial require-
33 ments unless similar limitations or requirements are imposed on coverage of other medical
34 conditions. The coverage of eligible expenses of behavioral health treatment may be limited to
35 treatment that is medically necessary as determined in accordance with this section and no more
36 stringently under the policy than for other medical conditions.

37 (c) The coverage of behavioral health treatment must include:

38 (A) A behavioral health assessment;

39 (B) No less than the level of services determined to be medically necessary in a behavioral
40 health assessment of the specific needs of a patient or in a patient's care plan:

41 (i) To effectively treat the patient's underlying behavioral health condition rather than the mere
42 amelioration of current symptoms such as suicidal ideation or psychosis; and

43 (ii) For care following a behavioral health crisis, to transition the patient to a lower level of
44 care;

45 (C) Treatment of co-occurring behavioral health conditions or medical conditions in a coordi-

1 nated manner;

2 (D) Treatment at the least intensive and least restrictive level of care that is safe and most ef-
3 fective and meets the needs of the insured's condition;

4 (E) A lower level or less intensive care only if it is comparably as safe and effective as treat-
5 ment at a higher level of service or intensity;

6 (F) Treatment to maintain functioning or prevent deterioration;

7 (G) Treatment for an appropriate duration based on the insured's particular needs;

8 (H) Treatment appropriate to the unique needs of children and adolescents;

9 (I) Treatment appropriate to the unique needs of older adults; and

10 (J) Coordinated care and case management as defined by the Department of Consumer and
11 Business Services by rule.

12 (d) The coverage of behavioral health treatment may not limit coverage for treatment of perva-
13 sive or chronic behavioral health conditions to short-term or acute behavioral health treatment at
14 any level of care or placement.

15 (e) A group health insurer or an issuer of an individual health benefit plan other than a grand-
16 fathered health plan shall have a network of providers of behavioral health treatment sufficient to
17 meet the standards described in ORS 743B.505. If there is no in-network provider qualified to timely
18 deliver, as defined by rule, medically necessary behavioral treatment to an insured in a geographic
19 area, the group health insurer or issuer of an individual health benefit plan shall provide coverage
20 of out-of-network medically necessary behavioral health treatment without any additional out-of-
21 pocket costs if provided by an available out-of-network provider that enters into an agreement with
22 the insurer to be reimbursed at in-network rates.

23 (f) A provider is eligible for reimbursement under this section if:

24 (A) The provider is approved or certified by the Oregon Health Authority;

25 (B) The provider is accredited for the particular level of care for which reimbursement is being
26 requested by the Joint Commission or the Commission on Accreditation of Rehabilitation Facilities;

27 (C) The patient is staying overnight at the facility and is involved in a structured program at
28 least eight hours per day, five days per week; or

29 (D) The provider is providing a covered benefit under the policy.

30 (g) A group health insurer or an issuer of an individual health benefit plan other than a grand-
31 fathered health plan must use the same methodology to set reimbursement rates paid to behavioral
32 health treatment providers that the group health insurer or issuer of an individual health benefit
33 plan uses to set reimbursement rates for medical and surgical treatment providers.

34 (h) A group health insurer or an issuer of an individual health benefit plan other than a
35 grandfathered health plan must update the methodology and rates for reimbursing behavioral health
36 treatment providers in a manner equivalent to the manner in which the group health insurer or
37 issuer of an individual health benefit plan updates the methodology and rates for reimbursing med-
38 ical and surgical treatment providers, unless otherwise required by federal law.

39 (i) A group health insurer or an issuer of an individual health benefit plan other than a grand-
40 fathered health plan that reimburses out-of-network providers for medical or surgical services must
41 reimburse out-of-network behavioral health treatment providers on the same terms and at a rate that
42 is in parity with the rate paid to medical or surgical treatment providers.

43 (j) Outpatient coverage of behavioral health treatment shall include follow-up in-home service
44 or outpatient services if clinically indicated under criteria and guidelines described in subsection (5)
45 of this section. The policy may limit coverage for in-home service to persons who are homebound

1 under the care of a physician only if clinically indicated under criteria and guidelines described in
2 subsection (5) of this section.

3 (k)(A) Subject to **section 2 of this 2024 Act and to** the patient or client confidentiality pro-
4 visions of ORS 40.235 relating to physicians, ORS 40.240 relating to nurse practitioners, ORS 40.230
5 relating to psychologists, ORS 40.250 and 675.580 relating to licensed clinical social workers and
6 ORS 40.262 relating to licensed professional counselors and licensed marriage and family therapists,
7 a group health insurer or issuer of an individual health benefit plan may provide for review for level
8 of treatment of admissions and continued stays for treatment in health facilities, residential facili-
9 ties, day or partial hospitalization programs and outpatient services by either staff of a group health
10 insurer or issuer of an individual health benefit plan or personnel under contract to the group health
11 insurer or issuer of an individual health benefit plan that is not a grandfathered health plan, or by
12 a utilization review contractor, who shall have the authority to certify for or deny level of payment.

13 (B) Review shall be made according to criteria made available to providers in advance upon
14 request.

15 (C) Review shall be performed by or under the direction of a physician licensed under ORS
16 677.100 to 677.228, a psychologist licensed by the Oregon Board of Psychology, a clinical social
17 worker licensed by the State Board of Licensed Social Workers or a professional counselor or mar-
18 riage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and
19 Therapists, in accordance with standards of the National Committee for Quality Assurance or
20 Medicare review standards of the Centers for Medicare and Medicaid Services.

21 (D) Review may involve prior [*approval*] **authorization**, concurrent review of the continuation
22 of treatment, post-treatment review or any combination of these. However, if prior [*approval*] **au-**
23 **thorization** is required, provision shall be made to allow for payment of urgent or emergency ad-
24 missions, subject to subsequent review. If prior [*approval*] **authorization** is not required, group
25 health insurers and issuers of individual health benefit plans that are not grandfathered health plans
26 shall permit providers, policyholders or persons acting on their behalf to make advance inquiries
27 regarding the appropriateness of a particular admission to a treatment program. Group health
28 insurers and issuers of individual health benefit plans that are not grandfathered health plans shall
29 provide a timely response to such inquiries. Noncontracting providers must cooperate with these
30 procedures to the same extent as contracting providers to be eligible for reimbursement.

31 (L) Health maintenance organizations may limit the receipt of covered services by enrollees to
32 services provided by or upon referral by providers contracting with the health maintenance organ-
33 ization. Health maintenance organizations and health care service contractors may create substan-
34 tive plan benefit and reimbursement differentials at the same level as, and subject to limitations no
35 more restrictive than, those imposed on coverage or reimbursement of expenses arising out of other
36 medical conditions and apply them to contracting and noncontracting providers.

37 (3) **Except as provided in section 2 of this 2024 Act**, this section does not prohibit a group
38 health insurer or issuer of an individual health benefit plan that is not a grandfathered health plan
39 from managing the provision of benefits through common methods, including but not limited to se-
40 lectively contracted panels, health plan benefit differential designs, preadmission screening, prior
41 authorization of services, utilization review or other mechanisms designed to limit eligible expenses
42 to those described in subsection (2)(b) of this section provided such methods comply with the re-
43 quirements of this section.

44 (4) The Legislative Assembly finds that health care cost containment is necessary and intends
45 to encourage health insurance plans designed to achieve cost containment by ensuring that re-

1 reimbursement is limited to appropriate utilization under criteria incorporated into the insurance, ei-
2 ther directly or by reference, in accordance with this section.

3 (5)(a) Any medical necessity, utilization or other clinical review conducted for the diagnosis,
4 prevention or treatment of behavioral health conditions or relating to service intensity, level of care
5 placement, continued stay or discharge must be based solely on the following:

6 (A) The current generally accepted standards of care.

7 (B) For level of care placement decisions, the most recent version of the levels of care placement
8 criteria developed by the nonprofit professional association for the relevant clinical specialty.

9 (C) For medical necessity, utilization or other clinical review conducted for the diagnosis, pre-
10 vention or treatment of behavioral health conditions that does not involve level of care placement
11 decisions, other criteria and guidelines may be utilized if such criteria and guidelines are based on
12 the current generally accepted standards of care including valid, evidence-based sources and current
13 treatment criteria or practice guidelines developed by the nonprofit professional association for the
14 relevant clinical specialty. Such other criteria and guidelines must be made publicly available and
15 made available to insureds upon request to the extent permitted by copyright laws.

16 (b) This subsection does not prevent a group health insurer or an issuer of an individual health
17 benefit plan other than a grandfathered health plan from using criteria that:

18 (A) Are outside the scope of criteria and guidelines described in paragraph (a)(B) of this sub-
19 section, if the guidelines were developed in accordance with the current generally accepted stan-
20 dards of care; or

21 (B) Are based on advancements in technology of types of care that are not addressed in the most
22 recent versions of sources specified in paragraph (a)(B) of this subsection, if the guidelines were
23 developed in accordance with current generally accepted standards of care.

24 (c) For all level of care placement decisions, an insurer shall authorize placement at the level
25 of care consistent with the insured's score or assessment using the relevant level of care placement
26 criteria and guidelines as specified in paragraph (a)(B) of this subsection. If the level of care indi-
27 cated by the criteria and guidelines is not available, the insurer shall authorize the next higher level
28 of care. If there is disagreement about the appropriate level of care, the insurer shall provide to the
29 provider of the service the full details of the insurer's scoring or assessment using the relevant level
30 of care placement criteria and guidelines specified in paragraph (a)(B) of this subsection.

31 (6) To ensure the proper use of any criteria and guidelines described in subsection (5) of this
32 section, a group health insurer or an issuer of an individual health benefit plan shall provide, at no
33 cost:

34 (a) A formal education program, presented by nonprofit clinical specialty associations or other
35 entities authorized by the department, to educate the insurer's or the issuer's staff and any individ-
36 uals described in subsection (2)(k) of this section who conduct reviews.

37 (b) To stakeholders, including participating providers and insureds, the criteria and guidelines
38 described in subsection (5) of this section and any education or training materials or resources re-
39 garding the criteria and guidelines.

40 (7) This section does not prevent a group health insurer or issuer of an individual health benefit
41 plan that is not a grandfathered health plan from contracting with providers of health care services
42 to furnish services to policyholders or certificate holders according to ORS 743B.460 or 750.005,
43 subject to the following conditions:

44 (a) A group health insurer or issuer of an individual health benefit plan that is not a grandfa-
45 thered health plan is not required to contract with all providers that are eligible for reimbursement

1 under this section.

2 (b) An insurer or health care service contractor shall, subject to subsection (2) of this section,
3 pay benefits toward the covered charges of noncontracting providers of services for behavioral
4 health treatment. The insured shall, subject to subsection (2) of this section, have the right to use
5 the services of a noncontracting provider of behavioral health treatment, whether or not the be-
6 havioral health treatment is provided by contracting or noncontracting providers.

7 (8)(a) This section does not require coverage for:

8 (A) Educational or correctional services or sheltered living provided by a school or halfway
9 house;

10 (B) A long-term residential mental health program that lasts longer than 45 days unless clin-
11 ically indicated under criteria and guidelines described in subsection (5) of this section;

12 (C) Psychoanalysis or psychotherapy received as part of an educational or training program,
13 regardless of diagnosis or symptoms that may be present;

14 (D) A court-ordered sex offender treatment program; or

15 (E) Support groups.

16 (b) Notwithstanding paragraph (a)(A) of this subsection, an insured may receive covered outpa-
17 tient services under the terms of the insured's policy while the insured is living temporarily in a
18 sheltered living situation.

19 (9) The Oregon Health Authority shall establish a process for the certification of an organiza-
20 tion described in subsection (1)(j)(F) of this section that:

21 (a) Is not otherwise subject to licensing or certification by the authority; and

22 (b) Does not contract with the authority, a subcontractor of the authority or a community
23 mental health program.

24 (10) The Oregon Health Authority shall adopt by rule standards for the certification provided
25 under subsection (9) of this section to ensure that a certified provider organization offers a distinct
26 and specialized program for the treatment of mental or nervous conditions.

27 (11) The Oregon Health Authority may adopt by rule an application fee or a certification fee,
28 or both, to be imposed on any provider organization that applies for certification under subsection
29 (9) of this section. Any fees collected shall be paid into the Oregon Health Authority Fund estab-
30 lished in ORS 413.101 and shall be used only for carrying out the provisions of subsection (9) of this
31 section.

32 (12) The intent of the Legislative Assembly in adopting this section is to reserve benefits for
33 different types of care to encourage cost effective care and to ensure continuing access to levels
34 of care most appropriate for the insured's condition and progress in accordance with this section.
35 This section does not prohibit an insurer from requiring a provider organization certified by the
36 Oregon Health Authority under subsection (9) of this section to meet the insurer's credentialing
37 requirements as a condition of entering into a contract.

38 (13) The Director of the Department of Consumer and Business Services and the Oregon Health
39 Authority, after notice and hearing, may adopt reasonable rules not inconsistent with this section
40 that are considered necessary for the proper administration of this section. The director shall adopt
41 rules making it a violation of this section for a group health insurer or issuer of an individual health
42 benefit plan other than a grandfathered health plan to require providers to bill using a specific
43 billing code or to restrict the reimbursement paid for particular billing codes other than on the basis
44 of medical necessity.

45 (14) This section does not:

1 (a) Prohibit an insured from receiving behavioral health treatment from an out-of-network pro-
2 vider or prevent an out-of-network behavioral health provider from billing the insured for any un-
3 reimbursed cost of treatment.

4 (b) Prohibit the use of value-based payment methods, including global budgets or capitated,
5 bundled, risk-based or other value-based payment methods.

6 (c) Require that any value-based payment method reimburse behavioral health services based
7 on an equivalent fee-for-service rate.

8 **SECTION 4.** ORS 414.766 is amended to read:

9 414.766. (1) Notwithstanding ORS 414.065 and 414.690, a coordinated care organization must
10 provide behavioral health services to its members that include but are not limited to all of the fol-
11 lowing:

12 (a) For a member who is experiencing a behavioral health crisis:

13 (A) A behavioral health assessment; and

14 (B) Services that are medically necessary to transition the member to a lower level of care;

15 (b) At least the minimum level of services that are medically necessary to treat a member's
16 underlying behavioral health condition rather than a mere amelioration of current symptoms, such
17 as suicidal ideation or psychosis, as determined in a behavioral health assessment of the member
18 or specified in the member's care plan;

19 (c) Treatment of co-occurring behavioral health disorders or medical conditions in a coordinated
20 manner;

21 (d) Treatment at the least intensive and least restrictive level of care that is safe and effective
22 and meets the needs of the individual's condition;

23 (e) For all level of care placement decisions, placement at the level of care consistent with a
24 member's score or assessment using the relevant level of care placement criteria and guidelines;

25 (f) If the level of placement described in paragraph (e) of this subsection is not available,
26 placement at the next higher level of care;

27 (g) Treatment to maintain functioning or prevent deterioration;

28 (h) Treatment for an appropriate duration based on the individual's particular needs;

29 (i) Treatment appropriate to the unique needs of children and adolescents;

30 (j) Treatment appropriate to the unique needs of older adults;

31 (k) Treatment that is culturally and linguistically appropriate;

32 (L) Treatment that is appropriate to the unique needs of gay, lesbian, bisexual and transgender
33 individuals and individuals of any other minority gender identity or sexual orientation;

34 (m) Coordinated care and case management as defined by the Department of Consumer and
35 Business Services by rule; *[and]*

36 (n) Mental health wellness appointments as prescribed by the Oregon Health Authority by
37 rule; **and**

38 **(o) Medications and refills of medications prescribed for the treatment of opioid use dis-**
39 **order and any co-occurring substance use disorder or mental health condition, including**
40 **early refills as described in section 7 of this 2024 Act.**

41 (2) If there is a disagreement about the level of care required by subsection (1)(e) or (f) of this
42 section, a coordinated care organization shall provide to the behavioral health treatment provider
43 full details of the coordinated care organization's scoring or assessment, to the extent permitted by
44 the federal Health Insurance Portability and Accountability Act privacy regulations, 45 C.F.R. parts
45 160 and 164, ORS 192.553 to 192.581 or other state or federal laws limiting the disclosure of health

1 information.

2 (3) The Oregon Health Authority shall adopt by rule a list of behavioral health services that
3 may not be subject to prior authorization.

4 **SECTION 5.** ORS 431A.463 is amended to read:

5 431A.463. (1) As used in this section, “medication-assisted treatment” means any
6 medication, and the dispensing or administering of the medication, that is approved by the
7 United States Food and Drug Administration on or before January 1, 2024, for the treatment
8 of substance use disorders, and that is used for that purpose, including opioid and opiate
9 addiction.

10 [(1)] (2) The Oregon Health Authority shall prohibit coordinated care organizations and public
11 payers of health insurance[, when reimbursing the cost of medication-assisted treatment for treating
12 substance use disorders, including opioid and opiate addiction,] from requiring prior authorization
13 [of payment during the first 30 days of medication-assisted treatment] for the reimbursement of the
14 costs of medication-assisted treatment.

15 (3) Notwithstanding subsection (2) of this section, a coordinated care organization may
16 require prior authorization of a brand name drug for medication-assisted treatment if a ge-
17 neric equivalent is available to substitute for a prescribed brand name drug. As used in this
18 subsection, a different formulation of the medication is not a generic equivalent.

19 [(2)] (4) The authority may adopt rules to carry out this section.

20
21 **(Pharmacist Prescribing and Dispensing of**
22 **Opioid Use Disorder Medication Refills)**
23

24 **SECTION 6.** Sections 7 and 8 of this 2024 Act are added to and made a part of ORS
25 chapter 689.

26 **SECTION 7.** (1) As used in this section:

27 (a) “Early refill” means:

28 (A) Up to three refills of a current prescription for a medication that a patient has lost
29 or that has been stolen or destroyed; or

30 (B) One refill in a 12 month period of a medication for which the previous prescription
31 expired in the prior 12 month period.

32 (b) “Refill” means a supply of a medication consistent with the amount specified in the
33 most recent prescription for the medication.

34 (2) A pharmacist may prescribe and dispense to a patient, to the extent permitted by
35 federal law, an early refill of a medication for the treatment of opioid use disorder in ac-
36 cordance with subsection (3) of the section.

37 (3) A pharmacist who prescribes and dispenses early refills under this section shall:

38 (a) Complete a patient assessment to determine whether the prescription is appropriate;

39 (b) Document the patient visit and include notations regarding evidence of the patient’s
40 previous prescription from the patient’s licensed health care provider, information relating
41 to the patient’s treatment and other relevant information; and

42 (c) Notify the patient’s primary care provider, and the licensed health care provider who
43 made the previous prescription, of the pharmacist’s dispensing of early refills, to the extent
44 permitted by state and federal law.

45 (4) Notations in a record documenting evidence of a patient’s previous prescription under

1 subsection (3)(b) of this section constitute verification of a valid prescription.

2 (5) The State Board of Pharmacy shall adopt rules to carry out this section, including
3 but not limited to rules to allow a:

4 (a) Pharmacist to apply for and obtain a registration number from the Drug Enforcement
5 Administration of the United States Department of Justice as a mid-level practitioner; and

6 (b) Pharmacy to store on the premises medications for the treatment of opioid use dis-
7 order.

8 (6) In adopting rules to carry out this section, the board shall consult with the Public
9 Health and Pharmacy Advisory Formulary Committee described in ORS 689.649.

10 **SECTION 8.** (1) As used in this section, “prescription drug locker” means a mechanical
11 device that serves as an extension of a retail drug outlet’s will call or point of sale area in
12 which completed patient-specific prescription drugs, devices and related supplies and
13 nonprescription drugs, devices and related supplies are stored for pickup.

14 (2) A prescription drug locker located within this state and at the same physical address
15 as the retail drug outlet with which the prescription drug locker is associated:

16 (a) Is considered part of the retail drug outlet and is not required to obtain a license or
17 registration from the State Board of Pharmacy; and

18 (b) Is not required to obtain a registration from the Drug Enforcement Administration
19 of the United States Department of Justice.

20 (3) A prescription drug locker located within this state but at a physical address other
21 than the physical address of the retail drug outlet with which the prescription drug locker
22 is associated is considered a remote dispensing site pharmacy and must obtain a registration
23 from the Drug Enforcement Administration in order to dispense controlled substances.

24 (4) The board may adopt rules to carry out this section.

25 **SECTION 9.** ORS 689.005 is amended to read:

26 689.005. As used in this chapter:

27 (1) “Administer” means the direct application of a drug or device whether by injection,
28 inhalation, ingestion, or any other means, to the body of a patient or research subject by:

29 (a) A practitioner or the practitioner’s authorized agent; or

30 (b) The patient or research subject at the direction of the practitioner.

31 (2) “Approved continuing pharmacy education program” means those seminars, classes,
32 meetings, workshops and other educational programs on the subject of pharmacy approved by the
33 State Board of Pharmacy.

34 (3) “Clinical pharmacy agreement” means an agreement between a pharmacist or pharmacy and
35 a health care organization or a physician as defined in ORS 677.010 or a naturopathic physician as
36 defined in ORS 685.010 that permits the pharmacist to engage in the practice of clinical pharmacy
37 for the benefit of the patients of the health care organization, physician or naturopathic physician.

38 (4) “Continuing pharmacy education” means:

39 (a) Professional, pharmaceutical post-graduate education in the general areas of socio-economic
40 and legal aspects of health care;

41 (b) The properties and actions of drugs and dosage forms; and

42 (c) The etiology, characteristics and therapeutics of the disease state.

43 (5) “Continuing pharmacy education unit” means the unit of measurement of credits for ap-
44 proved continuing education courses and programs.

45 (6) “Deliver” or “delivery” means the actual, constructive or attempted transfer of a drug or

1 device other than by administration from one person to another, whether or not for a consideration.

2 (7) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro
3 reagent or other similar or related article, including any component part or accessory, which is re-
4 quired under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

5 (8) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pur-
6 suant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent
7 administration to or use by a patient or other individual entitled to receive the prescription drug.

8 (9) "Distribute" means the delivery of a drug other than by administering or dispensing.

9 (10) "Drug" means:

10 (a) Articles recognized as drugs in the official United States Pharmacopoeia, official National
11 Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any
12 of them;

13 (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of dis-
14 ease in a human or other animal;

15 (c) Articles, other than food, intended to affect the structure or any function of the body of hu-
16 mans or other animals; and

17 (d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c)
18 of this subsection.

19 (11) "Drug order" means a written order, in a hospital or other inpatient care facility, for an
20 ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by
21 other means of communication from a practitioner, that is immediately reduced to writing by a
22 pharmacist, licensed nurse or other practitioner.

23 (12) "Drug outlet" means a pharmacy, nursing home, shelter home, convalescent home, extended
24 care facility, drug abuse treatment center, penal institution, hospital, family planning clinic, student
25 health center, retail store, wholesaler, manufacturer, mail-order vendor or other establishment with
26 facilities located within or out of this state that is engaged in dispensing, delivery or distribution
27 of drugs within this state.

28 (13) "Drug room" means a secure and lockable location within an inpatient care facility that
29 does not have a licensed pharmacy.

30 (14) "Electronically transmitted" or "electronic transmission" means a communication sent or
31 received through technological apparatuses, including computer terminals or other equipment or
32 mechanisms linked by telephone or microwave relays, or similar apparatus having electrical, digital,
33 magnetic, wireless, optical, electromagnetic or similar capabilities.

34 (15) "Injectable hormonal contraceptive" means a drug composed of a hormone or a combination
35 of hormones that is approved by the United States Food and Drug Administration to prevent preg-
36 nancy and that a health care practitioner administers to the patient by injection.

37 (16) "Institutional drug outlet" means hospitals and inpatient care facilities where medications
38 are dispensed to another health care professional for administration to patients served by the hos-
39 pitals or facilities.

40 (17) "Intern" means a person who is enrolled in or has completed a course of study at a school
41 or college of pharmacy approved by the board and who is licensed with the board as an intern.

42 (18) "Internship" means a professional experiential program approved by the board under the
43 supervision of a licensed pharmacist registered with the board as a preceptor.

44 (19) "Labeling" means the process of preparing and affixing of a label to any drug container
45 exclusive, however, of the labeling by a manufacturer, packer or distributor of a nonprescription

1 drug or commercially packaged legend drug or device.

2 (20) "Manufacture" means the production, preparation, propagation, compounding, conversion
3 or processing of a device or a drug, either directly or indirectly by extraction from substances of
4 natural origin or independently by means of chemical synthesis or by a combination of extraction
5 and chemical synthesis and includes any packaging or repackaging of the substances or labeling or
6 relabeling of its container, except that this term does not include the preparation or compounding
7 of a drug by an individual for their own use or the preparation, compounding, packaging or labeling
8 of a drug:

9 (a) By a practitioner as an incident to administering or dispensing of a drug in the course of
10 professional practice; or

11 (b) By a practitioner or by the practitioner's authorization under supervision of the practitioner
12 for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

13 (21) "Manufacturer" means a person engaged in the manufacture of drugs.

14 (22) "Nonprescription drug outlet" means a business or other establishment that is open to the
15 general public for the sale or nonprofit distribution of nonprescription drugs and is registered under
16 ORS 689.305.

17 (23) "Nonprescription drugs" means drugs that may be sold without a prescription and that are
18 prepackaged for use by the consumer and labeled in accordance with the requirements of the stat-
19 utes and regulations of this state and the federal government.

20 (24) "Person" means an individual, corporation, partnership, association or other legal entity.

21 (25) "Pharmacist" means an individual licensed by this state to engage in the practice of phar-
22 macy or to engage in the practice of clinical pharmacy.

23 (26) "Pharmacy" means a place that meets the requirements of rules of the board, is licensed
24 and approved by the board where the practice of pharmacy may lawfully occur and includes
25 apothecaries, drug stores, dispensaries, hospital outpatient pharmacies, pharmacy departments and
26 prescription laboratories but does not include a place used by a manufacturer or wholesaler.

27 (27) "Pharmacy technician" means a person licensed by the board who assists in the practice
28 of pharmacy pursuant to rules of the board.

29 (28) "Practice of clinical pharmacy" means:

30 (a) The health science discipline in which, in conjunction with the patient's other practitioners,
31 a pharmacist provides patient care to optimize medication therapy and to promote disease pre-
32 vention and the patient's health and wellness;

33 (b) The provision of patient care services, including but not limited to post-diagnostic disease
34 state management services; and

35 (c) The practice of pharmacy by a pharmacist pursuant to a clinical pharmacy agreement.

36 (29) "Practice of pharmacy" means:

37 (a) The interpretation and evaluation of prescription orders;

38 (b) The compounding, dispensing and labeling of drugs and devices, except labeling by a man-
39 ufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs
40 and devices;

41 (c) The prescribing and administering of vaccines and immunizations and the providing of pa-
42 tient care services pursuant to ORS 689.645;

43 (d) The administering of drugs and devices to the extent permitted under ORS 689.655;

44 (e) The participation in drug selection and drug utilization reviews;

45 (f) The proper and safe storage of drugs and devices and the maintenance of proper records re-

1 guarding the safe storage of drugs and devices;

2 (g) The responsibility for advising, where necessary or where regulated, of therapeutic values,
3 content, hazards and use of drugs and devices;

4 (h) The monitoring of therapeutic response or adverse effect to drug therapy;

5 (i) The optimizing of drug therapy through the practice of clinical pharmacy;

6 (j) Patient care services, including medication therapy management and comprehensive
7 medication review;

8 (k) The offering or performing of those acts, services, operations or transactions necessary in
9 the conduct, operation, management and control of pharmacy;

10 (L) The prescribing and administering of injectable hormonal contraceptives and the prescribing
11 and dispensing of self-administered hormonal contraceptives pursuant to ORS 689.689;

12 (m) The prescribing and dispensing of emergency refills of insulin and associated insulin-related
13 devices and supplies pursuant to ORS 689.696;

14 (n) The prescribing, dispensing and administering of preexposure prophylactic antiretroviral
15 therapies and post-exposure prophylactic antiretroviral therapies, pursuant to ORS 689.704 and rules
16 adopted by the board under ORS 689.645 and 689.704; [and]

17 (o) The delegation of tasks to other health care providers who are appropriately trained and
18 authorized to perform the delegated tasks; **and**

19 **(p) The prescribing and dispensing of early refills of medication for the treatment of**
20 **opioid use disorder pursuant to section 7 of this 2024 Act.**

21 (30) "Practitioner" means a person licensed and operating within the scope of such license to
22 prescribe, dispense, conduct research with respect to or administer drugs in the course of profes-
23 sional practice or research:

24 (a) In this state; or

25 (b) In another state or territory of the United States if the person does not reside in Oregon and
26 is registered under the federal Controlled Substances Act.

27 (31) "Preceptor" means a pharmacist or a person licensed by the board to supervise the
28 internship training of a licensed intern.

29 (32) "Prescription drug" or "legend drug" means a drug that is:

30 (a) Required by federal law, prior to being dispensed or delivered, to be labeled with either of
31 the following statements:

32 (A) "Caution: Federal law prohibits dispensing without prescription"; or

33 (B) "Caution: Federal law restricts this drug to use by or on the order of a licensed
34 veterinarian"; or

35 (b) Required by any applicable federal or state law or regulation to be dispensed on prescription
36 only or is restricted to use by practitioners only.

37 (33) "Prescription" or "prescription drug order" means a written, oral or electronically trans-
38 mitted direction, given by a practitioner authorized to prescribe drugs, for the preparation and use
39 of a drug. When the context requires, "prescription" also means the drug prepared under such
40 written, oral or electronically transmitted direction.

41 (34) "Retail drug outlet" means a place used for the conduct of the retail sale, administering or
42 dispensing or compounding of drugs or chemicals or for the administering or dispensing of pre-
43 scriptions and licensed by the board as a place where the practice of pharmacy may lawfully occur.

44 (35) "Self-administered hormonal contraceptive" means a drug composed of a hormone or a
45 combination of hormones that is approved by the United States Food and Drug Administration to

1 prevent pregnancy and that the patient to whom the drug is prescribed may administer to oneself.
2 “Self-administered hormonal contraceptive” includes, but is not limited to, hormonal contraceptive
3 patches and hormonal contraceptive pills.

4 (36) “Third-party logistics provider” means an entity that:

5 (a) Provides or coordinates warehousing of, or other logistics services for, a product in inter-
6 state commerce on behalf of a manufacturer, wholesale distributor or dispenser of the product; and

7 (b) Does not take ownership of, or have responsibility to direct the sale or disposition of, the
8 product.

9 (37) “Unit dose” means a sealed single-unit container so designed that the contents are admin-
10 istered to the patient as a single dose, direct from the container. Each unit dose container must bear
11 a separate label, be labeled with the name and strength of the medication, the name of the man-
12 ufacturer or distributor, an identifying lot number and, if applicable, the expiration date of the
13 medication.

14 (38) “Wholesale distributor drug outlet” means a person, other than a manufacturer,
15 manufacturer’s colicensed partner, third-party logistics provider or repackager, as defined in 21
16 U.S.C. 360eee(16), that is engaged in wholesale distribution, as defined in 21 U.S.C. 353(e)(4).

17
18 **(Access to Addiction Treatment**
19 **by Members of Coordinated Care Organizations)**

20
21 **SECTION 10.** ORS 414.609 is amended to read:

22 414.609. (1) A coordinated care organization that contracts with the Oregon Health Authority
23 must maintain a network of providers, **including but not limited to addiction treatment provid-**
24 **ers**, sufficient in numbers and areas of practice and geographically distributed in a manner to en-
25 sure that the health services provided under the contract are reasonably accessible to members.

26 (2) A member may transfer from one organization to another organization no more than once
27 during each enrollment period.

28
29 **(Alcohol and Drug Policy Commission Study)**

30
31 **SECTION 11.** (1) **The Alcohol and Drug Policy Commission created under ORS 430.221**
32 **shall conduct a study of barriers to and best practices for:**

33 (a) **Youth accessing opioid use disorder treatment; and**

34 (b) **Increasing access to opioid use disorder medications, including:**

35 (A) **Opioid use disorder medication treatment interventions and the prescribing of opioid**
36 **use disorder medication in emergency departments; and**

37 (B) **Increasing the number of providers of opioid use disorder treatment statewide.**

38 (2) **In studying the barriers to and best practices for youth accessing opioid use disorder**
39 **treatment under subsection (1)(a) of this section, the commission shall collaborate with**
40 **participating state agencies, as defined in ORS 430.221, and the System of Care Advisory**
41 **Council established in ORS 418.978.**

42 (3) **No later than September 30, 2024, the commission shall provide to the interim com-**
43 **mittees of the Legislative Assembly related to health a report on the status of the study and**
44 **any preliminary recommendations that the commission has developed.**

45 (4) **No later than September 15, 2025, the commission shall report to the interim com-**

1 mittees of the Legislative Assembly related to behavioral health, in the manner provided in
2 ORS 192.245:

3 (a) A strategic plan to improve the access of youth to opioid use disorder treatment;

4 (b) A strategic plan that includes evidence-based and evidence-informed strategies for
5 increasing the number of opioid use disorder treatment providers statewide and expanding
6 the capacity of the opioid use disorder treatment system in this state;

7 (c) Recommendations for reducing the barriers to accessing opioid use disorder treat-
8 ment, including barriers to the provision of opioid use disorder treatment interventions in
9 emergency departments; and

10 (d) Needed changes to address obstacles encountered by behavioral health providers when
11 seeking health insurance reimbursement for opioid use disorder medications, including but
12 not limited to:

13 (A) Requiring providers to use specialty pharmacies instead of purchasing medications
14 directly from vendors and billing the insurers;

15 (B) Limiting the coverage of opioid use disorder treatment to specific forms of
16 medications, such as sublingual or injectable forms;

17 (C) Imposing limits on the amount of an opioid use disorder medication that may be
18 dispensed during a single visit; and

19 (D) Obstacles identified from data regarding insurance claim denials, including retroac-
20 tive denials, of reimbursement for opioid use disorder medications.

21 **SECTION 12.** Section 11 of this 2024 Act is repealed on January 2, 2026.

22
23 (Certified Community Behavioral Health Clinic Program)

24
25 **SECTION 13.** Section 14 of this 2024 Act is added to and made a part of ORS chapter 413.

26 **SECTION 14.** (1) The certified community behavioral health clinic program is established
27 in the Oregon Health Authority for the purpose of certifying community behavioral health
28 clinics that meet criteria adopted by the authority by rule to receive prospective fixed cost-
29 based rates, as provided in subsection (4) of this section, for services provided to medical
30 assistance enrollees.

31 (2) The authority shall appoint an advisory committee, as described in ORS 183.333, to
32 advise the authority in the adoption of rules to carry out this section. The Director of the
33 Oregon Health Authority shall appoint to the advisory committee 15 individuals who repre-
34 sent a diverse constituency and are knowledgeable about certified community behavioral
35 health clinic delivery systems, patient-centered primary care home delivery systems, inte-
36 grated health care or health care quality. At least five members of the advisory committee
37 must be current or former consumers of the type of behavioral health services that are
38 typically provided by certified community behavioral health clinics or family members, rep-
39 resentatives or advocates for such consumers. Rules adopted by the authority:

40 (a) Must be consistent with the criteria adopted by the United States Department of
41 Health and Human Services for certified community behavioral health clinics; and

42 (b) Shall ensure that certified community behavioral health clinics provide, either di-
43 rectly or by referral through formal relationships with other providers, all of the services
44 required by the criteria adopted by the United States Department of Health and Human
45 Services for certified community behavioral health clinics.

1 **(3) If the authority adopts requirements for certified community behavioral health clinics**
2 **that are in addition to the criteria described in subsection (2)(a) of this section, the authority**
3 **shall:**

4 **(a) Provide funding to the clinics sufficient to reimburse the costs of the additional re-**
5 **quirements; or**

6 **(b) Have a process for granting allowable variances to one or more of the requirements.**

7 **(4)(a) A certified community behavioral health clinic shall complete the federally required**
8 **cost report for the authority to review and approve the clinic's prospective fixed cost-based**
9 **rate for a patient encounter.**

10 **(b) The authority shall regularly adjust the prospective fixed cost-based rate at intervals**
11 **consistent with federal guidance. A certified community behavioral health clinic may request**
12 **a rate adjustment if a clinic changes the clinic's scope of services.**

13 **(c) The authority shall adopt and provide to certified community behavioral health clinics**
14 **guidance on the development of fixed rates and billing. The fixed rate must include but is**
15 **not limited to:**

16 **(A) An estimate of the projected cost of anticipated expansions of the certified commu-**
17 **nity behavioral health clinic program or the populations served by the program; and**

18 **(B) The cost of the technology and data systems needed by each clinic to track and**
19 **measure outcomes and other data that the authority requires to be tracked or measured.**

20 **(d) The authority shall review federal guidance on rate setting for clinics that are dually**
21 **certified as federally qualified health centers, as defined in 42 U.S.C. 1396d(1)(2), and as cer-**
22 **tified community behavioral health clinics and provide recommendations to such dually cer-**
23 **tified clinics about how the clinics can best bill for services.**

24 **(5) In any geographic region of this state that is served by both a certified community**
25 **behavioral health clinic and a community mental health program:**

26 **(a) Before the authority may approve the certification of a certified community behav-**
27 **ioral health clinic, the certified community behavioral health clinic and the community**
28 **mental health program shall enter into a written agreement concerning collaboration be-**
29 **tween the clinic and the program in the coordination of services that are provided by both**
30 **the clinic and the program.**

31 **(b) The authority shall develop a plan to ensure:**

32 **(A) Coordination of services between the clinic and the program to minimize service re-**
33 **dundancies; and**

34 **(B) Financial efficiencies to maximize financial benefits.**

35 **(6) This section does not require a clinic that is eligible for certification under this sec-**
36 **tion to apply for certification. Participation in the certified community behavioral health**
37 **clinic program is voluntary.**

38 **SECTION 15.** (1) **Prior to January 15, 2025, the Oregon Health Authority shall begin pre-**
39 **paring a draft state plan amendment to submit to the Centers for Medicare and Medicaid**
40 **Services to implement the certified community behavioral health clinic program established**
41 **in section 14 of this 2024 Act.**

42 **(2) Prior to the expiration of the community behavioral health clinic demonstration pro-**
43 **gram described in section 223 of the Protecting Access to Medicare Act of 2014 (P.L. 113-93),**
44 **as amended, the authority shall seek federal approval for an amendment to the Medicaid**
45 **state plan to allow the state to receive federal financial participation in the costs of the**

1 certified community behavioral health clinic program established in section 14 of this 2024
2 Act.

3 (3) The authority shall explore all prospective rate methodologies allowed for the certified
4 community behavioral health clinic model by the Centers for Medicare and Medicaid Ser-
5 vices.

6
7 (Joint Task Force on Regional Behavioral Health Accountability)

8
9 **SECTION 16.** (1) The Joint Task Force on Regional Behavioral Health Accountability is
10 established to make recommendations to the Legislative Assembly to improve the
11 governance of behavioral health systems and strengthen evidence-based and equitable fund-
12 ing decisions and accountability of behavioral health systems.

13 (2) The task force consists of 26 members appointed as follows:

14 (a) The President of the Senate shall appoint two members from among members of the
15 Senate, one from the majority party and one from the minority party.

16 (b) The Speaker of the House of Representatives shall appoint two members from among
17 members of the House of Representatives, one from the majority party and one from the
18 minority party.

19 (c) The Chief Justice of the Supreme Court shall appoint one member from the Judicial
20 Department.

21 (d) The Governor shall appoint 21 members as follows:

22 (A) One member representing the Oregon Health Authority;

23 (B) One member representing the Alcohol and Drug Policy Commission;

24 (C) One member representing the Department of Human Services;

25 (D) One member representing coordinated care organizations;

26 (E) One member representing providers of psychiatric care in clinical settings;

27 (F) One member representing Oregon counties;

28 (G) One member representing Oregon cities;

29 (H) One member who provides county mental health services or who represents county
30 mental health providers;

31 (I) One member from a large labor organization representing behavioral health workers;

32 (J) One member who is a behavioral health provider or who represents private and
33 nonprofit behavioral health providers;

34 (K) One member who provides nonprofit substance use disorder treatment or who re-
35 presents nonprofit substance use disorder treatment providers;

36 (L) One member from a large labor organization representing nurses;

37 (M) One member who is a licensed doctor or who represents licensed doctors with expe-
38 rience in behavioral health or substance use disorder treatment programs, care delivery or
39 funding;

40 (N) One member from a business coalition representing the hospital industry;

41 (O) One member from a business coalition representing the insurance industry;

42 (P) One member from a business coalition representing pharmacists;

43 (Q) One member representing a consumer of behavioral health services;

44 (R) One member with extensive experience in Oregon Indian tribes and a deep under-
45 standing of Oregon's rural and urban tribal populations, appointed after consultation with

1 the Commission on Indian Services;

2 (S) One member who is an emergency response transportation provider;

3 (T) One member representing long term care facilities; and

4 (U) One member with experience in regional behavioral health system governance.

5 (3) The task force, in collaboration with any other task forces that are charged with
6 scopes of work that overlap or intersect with the charges of the Joint Task Force on Re-
7 gional Behavioral Health Accountability, shall develop recommendations to:

8 (a) Improve collaboration and accountability across federal, state and local behavioral
9 health and substance use disorder treatment programs and funding;

10 (b) Ensure equitable outcomes in publicly supported treatment settings across Oregon
11 communities;

12 (c) Provide greater cost efficiencies in the continuum of care of Oregon's behavioral
13 health system; and

14 (d) Establish broad access to methadone and other opioid use disorder medications
15 through mobile devices, telehealth and pharmacy-based services to measurably increase the
16 engagement statewide of individuals with opioid use disorder in opioid use disorder treat-
17 ment.

18 (4) Recommendations developed under subsection (3) of this section should include:

19 (a) Any statutory changes needed to ensure that federal, state and local funds are being
20 spent to maximize outcomes and resource efficiency;

21 (b) Policy changes recommended based on a comparative analysis of policies in other
22 states that spend less on treatment but demonstrate better behavioral health and substance
23 use disorder treatment outcomes, including better outcomes for groups that are dispropor-
24 tionately impacted by health inequities; and

25 (c) Any governance changes that would facilitate greater alignment of spending decisions
26 between federal, state and local behavioral health and substance use disorder treatment
27 programs.

28 (5) A majority of the voting members of the task force constitutes a quorum for the
29 transaction of business.

30 (6) Official action by the task force requires the approval of a majority of the voting
31 members of the task force.

32 (7) The task force shall elect one of its members to serve as chairperson.

33 (8) If there is a vacancy for any cause, the appointing authority shall make an appoint-
34 ment to become immediately effective.

35 (9) The task force shall meet at times and places specified by the call of the chairperson
36 or of a majority of the voting members of the task force.

37 (10) The task force may adopt rules necessary for the operation of the task force.

38 (11)(a) The task force shall provide draft recommendations developed under subsections
39 (3) and (4) of this section to the interim committees of the Legislative Assembly related to
40 health no later than September 15, 2025.

41 (b) The task force shall submit a final report of the task force's recommendations, in the
42 manner provided by ORS 192.245, to the interim committees of the Legislative Assembly re-
43 lated to health no later than December 15, 2025.

44 (12) The Legislative Policy and Research Director shall provide staff support to the task
45 force, including by:

1 (a) Researching and providing analysis on current behavioral health funding streams that
2 support the continuum of care across Oregon communities;

3 (b) Reviewing strategies that have been successful in other states, including through the
4 use of federal Medicaid waivers or Medicaid demonstration projects;

5 (c) Reviewing data related to the challenges faced by individuals receiving substance use
6 disorder treatment in publicly supported treatment settings; and

7 (d) Reviewing the responsibilities of county and state agencies and the accountability of
8 county and state agencies for providing behavioral health and substance use disorder treat-
9 ment.

10 (13) Members of the Legislative Assembly appointed to the task force are nonvoting
11 members of the task force and may act in an advisory capacity only.

12 (14) Members of the task force who are not members of the Legislative Assembly are not
13 entitled to compensation or reimbursement for expenses and serve as volunteers on the task
14 force.

15 (15) All agencies of state government, as defined in ORS 174.111, are directed to assist
16 the task force in the performance of the duties of the task force and, to the extent permitted
17 by laws relating to confidentiality, to furnish information and advice the members of the task
18 force consider necessary to perform their duties.

19 **SECTION 17.** Section 16 of this 2024 Act is repealed on January 2, 2026.

20
21 (Task Force on Improving the Safety
22 of Behavioral Health Workers)
23

24 **SECTION 18.** (1) The Task Force on Improving the Safety of Behavioral Health Workers
25 is established.

26 (2) The task force consists of 17 members appointed as follows:

27 (a) The President of the Senate shall appoint two members from among members of the
28 Senate.

29 (b) The Speaker of the House of Representatives shall appoint two members from among
30 members of the House of Representatives.

31 (c) The President and the Speaker shall jointly appoint:

32 (A) Four employers of behavioral health workers including one from county government;

33 (B) Two behavioral health workers;

34 (C) Two representatives of organized labor representing behavioral health workers;

35 (D) One consumer of behavioral health services;

36 (E) One representative of the state protection and advocacy system described in ORS
37 192.517 (1); and

38 (F) One representative of the Oregon State Hospital or the Oregon Health Authority on
39 behalf of the hospital.

40 (d) The Governor shall appoint two members from the Occupational Safety and Health
41 Division of the Department of Consumer and Business Services.

42 (3) The task force shall produce a set of recommendations for improving the safety of
43 behavioral health workers.

44 (4) A majority of the voting members of the task force constitutes a quorum for the
45 transaction of business.

1 (5) Official action by the task force requires the approval of a majority of the voting
2 members of the task force.

3 (6) The task force shall elect one of its members to serve as chairperson.

4 (7) If there is a vacancy for any cause, the appointing authority shall make an appoint-
5 ment to become immediately effective.

6 (8) The task force shall meet at times and places specified by the call of the chairperson
7 or of a majority of the voting members of the task force.

8 (9) The task force may adopt rules necessary for the operation of the task force.

9 (10) No later than September 1, 2024, the task force shall submit to the interim commit-
10 tees of the Legislative Assembly related to health a preliminary report containing draft pol-
11 icy recommendations to address the safety concerns that are prevalent in the behavioral
12 health industry including recommendations, by type of behavioral health facility or
13 workplace setting, for:

14 (a) Physical and structural security requirements;

15 (b) Safe staffing levels;

16 (c) Standards and procedures for reporting assaults;

17 (d) Best practices for worker safety training including minimum requirements for train-
18 ing on workplace safety protocols;

19 (e) Minimum standards for safety protocols and procedures;

20 (f) Strategies to ensure compliance with all worker safety and training requirements; and

21 (g) Potential sources of funding to mitigate the costs incurred by implementing any of
22 the recommendations.

23 (11) No later than December 1, 2024, the task force shall report the task force's final
24 recommendations, in the manner provided by ORS 192.245, to the interim committees of the
25 Legislative Assembly related to health.

26 (12) The Legislative Policy and Research Director shall provide staff support to the task
27 force and the Legislative Counsel shall provide legal support for the task force recommen-
28 dations including but not limited to drafting proposed legislative changes.

29 (13) Members of the Legislative Assembly appointed to the task force are nonvoting
30 members of the task force and may act in an advisory capacity only.

31 (14) Members of the task force who are not members of the Legislative Assembly or ap-
32 pointed by the Governor shall be paid compensation and reimbursed for actual and necessary
33 travel and other expenses incurred by them in the performance of their official duties on the
34 task force in the manner and amounts provided for in ORS 292.495.

35 (15) All agencies of state government, as defined in ORS 174.111, are directed to assist
36 the task force in the performance of the duties of the task force and, to the extent permitted
37 by laws relating to confidentiality, to furnish information and advice the members of the task
38 force consider necessary to perform their duties.

39 **SECTION 19.** Section 18 of this 2024 Act is repealed on January 2, 2026.

40
41 (United We Heal Medicaid Payment Program)

42
43 **SECTION 20.** (1) The United We Heal Medicaid Payment Program is established in the
44 Oregon Health Authority. The goal of the program is to increase the available behavioral
45 health care workforce in this state. The authority shall provide supplemental medical as-

1 **sistance payments to eligible behavioral health care providers to enable the providers to ac-**
2 **cess enhanced apprenticeship and training programs and opportunities by participating in a**
3 **labor-management training trust.**

4 **(2) The authority shall prescribe by rule eligibility criteria for receiving the payments**
5 **consistent with the goal of the program expressed in subsection (1) of this section.**

6 **(3) To participate in the program, a behavioral health provider must enter into a memo-**
7 **randum of understanding with the authority specifying how the payments will be used. The**
8 **authority shall terminate payments if the provider fails to abide by or violates the terms of**
9 **the memorandum of understanding. A provider may request a contested case proceeding to**
10 **challenge a termination.**

11
12 **(Conforming Amendments)**
13

14 **SECTION 21.** ORS 750.055 is amended to read:

15 750.055. (1) The following provisions apply to health care service contractors to the extent not
16 inconsistent with the express provisions of ORS 750.005 to 750.095:

17 (a) ORS 705.137, 705.138 and 705.139.

18 (b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398
19 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS
20 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652,
21 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

22 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.596, not
23 including ORS 732.582, and ORS 732.650 to 732.689.

24 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695
25 to 733.780.

26 (e) ORS 734.014 to 734.440.

27 (f) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to 742.162 and 742.518 to
28 742.542.

29 (g) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.022, 743.023, 743.025,
30 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406,
31 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650
32 to 743.656, 743.680 to 743.689, 743.788, 743.790 and 743B.221.

33 (h) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036, 743A.040, 743A.044,
34 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066,
35 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105,
36 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.169,
37 743A.170, 743A.175, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252, 743A.260, 743A.310
38 and 743A.315 and section 2, chapter 771, Oregon Laws 2013, **and section 2 of this 2024 Act.**

39 (i) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195, 743B.197, 743B.200,
40 743B.202, 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254,
41 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320,
42 743B.323, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407,
43 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550,
44 743B.555, 743B.601, 743B.602 and 743B.800.

45 (j) The following provisions of ORS chapter 744:

1 (A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance produc-
2 ers;

3 (B) ORS 744.602 to 744.665, relating to the regulation of insurance consultants; and

4 (C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

5 (k) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
6 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

7 (2) The following provisions of the Insurance Code apply to health care service contractors ex-
8 cept in the case of group practice health maintenance organizations that are federally qualified
9 pursuant to Title XIII of the Public Health Service Act:

10 (a) ORS 731.485, if the group practice health maintenance organization wholly owns and oper-
11 ates an in-house drug outlet.

12 (b) ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse
13 practitioner associated with a group practice health maintenance organization.

14 (3) For the purposes of this section, health care service contractors are insurers.

15 (4) Any for-profit health care service contractor organized under the laws of any other state that
16 is not governed by the insurance laws of the other state is subject to all requirements of ORS
17 chapter 732.

18 (5)(a) A health care service contractor is a domestic insurance company for the purpose of de-
19 termining whether the health care service contractor is a debtor, as defined in 11 U.S.C. 109.

20 (b) A health care service contractor's classification as a domestic insurance company under
21 paragraph (a) of this subsection does not subject the health care service contractor to ORS 734.510
22 to 734.710.

23 (6) The Director of the Department of Consumer and Business Services may, after notice and
24 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025
25 and 750.045 that are necessary for the proper administration of these provisions.

26 **SECTION 22.** ORS 750.055, as amended by section 21, chapter 771, Oregon Laws 2013, section
27 7, chapter 25, Oregon Laws 2014, section 82, chapter 45, Oregon Laws 2014, section 9, chapter 59,
28 Oregon Laws 2015, section 7, chapter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws
29 2015, section 11, chapter 362, Oregon Laws 2015, section 10, chapter 470, Oregon Laws 2015, section
30 30, chapter 515, Oregon Laws 2015, section 10, chapter 206, Oregon Laws 2017, section 6, chapter
31 417, Oregon Laws 2017, section 22, chapter 479, Oregon Laws 2017, section 10, chapter 7, Oregon
32 Laws 2018, section 69, chapter 13, Oregon Laws 2019, section 38, chapter 151, Oregon Laws 2019,
33 section 5, chapter 441, Oregon Laws 2019, section 85, chapter 97, Oregon Laws 2021, section 12,
34 chapter 37, Oregon Laws 2022, section 5, chapter 111, Oregon Laws 2023, and section 2, chapter 152,
35 Oregon Laws 2023, is amended to read:

36 750.055. (1) The following provisions apply to health care service contractors to the extent not
37 inconsistent with the express provisions of ORS 750.005 to 750.095:

38 (a) ORS 705.137, 705.138 and 705.139.

39 (b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398
40 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS
41 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652,
42 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

43 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.596, not
44 including ORS 732.582, and ORS 732.650 to 732.689.

45 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695

1 to 733.780.

2 (e) ORS 734.014 to 734.440.

3 (f) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to 742.162 and 742.518 to
4 742.542.

5 (g) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.022, 743.023, 743.025,
6 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406,
7 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650
8 to 743.656, 743.680 to 743.689, 743.788, 743.790 and 743B.221.

9 (h) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036, 743A.040, 743A.044,
10 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066,
11 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105,
12 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.169,
13 743A.170, 743A.175, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252, 743A.260, 743A.310
14 and 743A.315 **and section 2 of this 2024 Act.**

15 (i) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195, 743B.197, 743B.200,
16 743B.202, 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254,
17 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320,
18 743B.323, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407,
19 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550,
20 743B.555, 743B.601, 743B.602 and 743B.800.

21 (j) The following provisions of ORS chapter 744:

22 (A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance produc-
23 ers;

24 (B) ORS 744.602 to 744.665, relating to the regulation of insurance consultants; and

25 (C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

26 (k) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610,
27 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

28 (2) The following provisions of the Insurance Code apply to health care service contractors ex-
29 cept in the case of group practice health maintenance organizations that are federally qualified
30 pursuant to Title XIII of the Public Health Service Act:

31 (a) ORS 731.485, if the group practice health maintenance organization wholly owns and oper-
32 ates an in-house drug outlet.

33 (b) ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse
34 practitioner associated with a group practice health maintenance organization.

35 (3) For the purposes of this section, health care service contractors are insurers.

36 (4) Any for-profit health care service contractor organized under the laws of any other state that
37 is not governed by the insurance laws of the other state is subject to all requirements of ORS
38 chapter 732.

39 (5)(a) A health care service contractor is a domestic insurance company for the purpose of de-
40 termining whether the health care service contractor is a debtor, as defined in 11 U.S.C. 109.

41 (b) A health care service contractor's classification as a domestic insurance company under
42 paragraph (a) of this subsection does not subject the health care service contractor to ORS 734.510
43 to 734.710.

44 (6) The Director of the Department of Consumer and Business Services may, after notice and
45 hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025

1 and 750.045 that are necessary for the proper administration of these provisions.

2 **SECTION 23.** ORS 750.333 is amended to read:

3 750.333. (1) The following provisions apply to trusts carrying out a multiple employer welfare
4 arrangement:

5 (a) ORS 705.137, 705.138 and 705.139.

6 (b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,
7 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,
8 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804, 731.808 and 731.844 to
9 731.992.

10 (c) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

11 (d) ORS 734.014 to 734.440.

12 (e) ORS 742.001 to 742.009, 742.013, 742.016, 742.061 and 742.065.

13 (f) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.023, 743.028, 743.029,
14 743.053, 743.405, 743.406, 743.524, 743.526, 743.535 and 743B.221.

15 (g) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.024, 743A.034, 743A.036, 743A.040,
16 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066,
17 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105,
18 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.169,
19 743A.170, 743A.175, 743A.180, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252, 743A.260
20 and 743A.310 **and section 2 of this 2024 Act.**

21 (h) ORS 743B.001, 743B.003 to 743B.127 (except 743B.125 to 743B.127), 743B.195, 743B.197,
22 743B.200, 743B.202, 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253,
23 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.310, 743B.320, 743B.321, 743B.330, 743B.340,
24 743B.341, 743B.342, 743B.343, 743B.344, 743B.345, 743B.347, 743B.400, 743B.403, 743B.407, 743B.420,
25 743B.423, 743B.451, 743B.453, 743B.470, 743B.505, 743B.550, 743B.555 and 743B.601.

26 (i) The following provisions of ORS chapter 744:

27 (A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance produc-
28 ers;

29 (B) ORS 744.602 to 744.665, relating to the regulation of insurance consultants; and

30 (C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

31 (j) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

32 (2) For the purposes of this section:

33 (a) A trust carrying out a multiple employer welfare arrangement is an insurer.

34 (b) References to certificates of authority are references to certificates of multiple employer
35 welfare arrangement.

36 (c) Contributions are premiums.

37 (3) The provision of health benefits under ORS 750.301 to 750.341 is the transaction of health
38 insurance.

39 (4) The Department of Consumer and Business Services may adopt rules that are necessary to
40 implement the provisions of ORS 750.301 to 750.341.

41
42 **DELIVERY OF CONTROLLED SUBSTANCES**
43 **(Delivery Definition Based on State v. Boyd)**
44

45 **SECTION 24.** ORS 475.005 is amended to read:

1 475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires
2 otherwise:

3 (1) "Abuse" means the repetitive excessive use of a drug short of dependence, without legal or
4 medical supervision, which may have a detrimental effect on the individual or society.

5 (2) "Administer" means the direct application of a controlled substance, whether by injection,
6 inhalation, ingestion or any other means, to the body of a patient or research subject by:

7 (a) A practitioner or an authorized agent thereof; or

8 (b) The patient or research subject at the direction of the practitioner.

9 (3) "Administration" means the Drug Enforcement Administration of the United States Depart-
10 ment of Justice, or its successor agency.

11 (4) "Agent" means an authorized person who acts on behalf of or at the direction of a man-
12 ufacturer, distributor or dispenser. It does not include a common or contract carrier, public
13 warehouseman or employee of the carrier or warehouseman.

14 (5) "Board" means the State Board of Pharmacy.

15 (6) "Controlled substance":

16 (a) Means a drug or its immediate precursor classified in Schedules I through V under the fed-
17 eral Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the
18 term "precursor" in this paragraph does not control and is not controlled by the use of the term
19 "precursor" in ORS 475.752 to 475.980.

20 (b) Does not include:

21 (A) The plant Cannabis family Cannabaceae;

22 (B) Any part of the plant Cannabis family Cannabaceae, whether growing or not;

23 (C) Resin extracted from any part of the plant Cannabis family Cannabaceae;

24 (D) The seeds of the plant Cannabis family Cannabaceae;

25 (E) Any compound, manufacture, salt, derivative, mixture or preparation of a plant, part of a
26 plant, resin or seed described in this paragraph; or

27 (F) Psilocybin or psilocin, but only if and to the extent that a person manufactures, delivers, or
28 possesses psilocybin, psilocin, or psilocybin products in accordance with the provisions of ORS
29 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

30 (7) "Counterfeit substance" means a controlled substance or its container or labeling, which,
31 without authorization, bears the trademark, trade name, or other identifying mark, imprint, number
32 or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person
33 who in fact manufactured, delivered or dispensed the substance.

34 (8) "Deliver" or "delivery" means the actual, constructive or attempted transfer **of, or pos-**
35 **session with the intent to transfer**, other than by administering or dispensing, from one person
36 to another, [of] a controlled substance, whether or not there is an agency relationship.

37 (9) "Device" means instruments, apparatus or contrivances, including their components, parts
38 or accessories, intended:

39 (a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or
40 animals; or

41 (b) To affect the structure of any function of the body of humans or animals.

42 (10) "Dispense" means to deliver a controlled substance to an ultimate user or research subject
43 by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering,
44 packaging, labeling or compounding necessary to prepare the substance for that delivery.

45 (11) "Dispenser" means a practitioner who dispenses.

1 (12) "Distributor" means a person who delivers.

2 (13) "Drug" means:

3 (a) Substances recognized as drugs in the official United States Pharmacopoeia, official
4 Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement
5 to any of them;

6 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of
7 disease in humans or animals;

8 (c) Substances (other than food) intended to affect the structure or any function of the body of
9 humans or animals; and

10 (d) Substances intended for use as a component of any article specified in paragraph (a), (b) or
11 (c) of this subsection; however, the term does not include devices or their components, parts or ac-
12 cessories.

13 (14) "Electronically transmitted" or "electronic transmission" means a communication sent or
14 received through technological apparatuses, including computer terminals or other equipment or
15 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,
16 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

17 (15) "Manufacture" means the production, preparation, propagation, compounding, conversion
18 or processing of a controlled substance, either directly or indirectly by extraction from substances
19 of natural origin, or independently by means of chemical synthesis, or by a combination of extraction
20 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or
21 relabeling of its container, except that this term does not include the preparation or compounding
22 of a controlled substance:

23 (a) By a practitioner as an incident to administering or dispensing of a controlled substance in
24 the course of professional practice; or

25 (b) By a practitioner, or by an authorized agent under the practitioner's supervision, for the
26 purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

27 (16) "Person" includes a government subdivision or agency, business trust, estate, trust or any
28 other legal entity.

29 (17) "Practitioner" means physician, dentist, veterinarian, scientific investigator, licensed nurse
30 practitioner, physician assistant or other person licensed, registered or otherwise permitted by law
31 to dispense, conduct research with respect to or to administer a controlled substance in the course
32 of professional practice or research in this state but does not include a pharmacist or a pharmacy.

33 (18) "Prescription" means a written, oral or electronically transmitted direction, given by a
34 practitioner for the preparation and use of a drug. When the context requires, "prescription" also
35 means the drug prepared under such written, oral or electronically transmitted direction. Any label
36 affixed to a drug prepared under written, oral or electronically transmitted direction shall promi-
37 nently display a warning that the removal thereof is prohibited by law.

38 (19) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a
39 controlled substance.

40 (20) "Research" means an activity conducted by the person registered with the federal Drug
41 Enforcement Administration pursuant to a protocol approved by the United States Food and Drug
42 Administration.

43 (21) "Ultimate user" means a person who lawfully possesses a controlled substance for the use
44 of the person or for the use of a member of the household of the person or for administering to an
45 animal owned by the person or by a member of the household of the person.

1 (22) "Usable quantity" means:

2 (a) An amount of a controlled substance that is sufficient to physically weigh independent of its
3 packaging and that does not fall below the uncertainty of the measuring scale; or

4 (b) An amount of a controlled substance that has not been deemed unweighable, as determined
5 by a Department of State Police forensic laboratory, due to the circumstances of the controlled
6 substance.

7 (23) "**Within 30 feet,**" "**within 500 feet**" and "within 1,000 feet" [*means*] **mean** a straight line
8 measurement in a radius extending for [1,000] **the specified number of** feet or less in every direc-
9 tion from a specified location or from any point on the boundary line of a specified unit of property.

10
11 **(Delivery in Certain Locations)**

12
13 **SECTION 25.** ORS 475.900 is amended to read:

14 475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified
15 as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

16 (a) The violation constitutes delivery or manufacture of a controlled substance and involves
17 substantial quantities of a controlled substance. For purposes of this paragraph, the following
18 amounts constitute substantial quantities of the following controlled substances:

19 (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

20 (B) Five grams or more or 25 or more user units of a mixture or substance containing a de-
21 tectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the
22 State Board of Pharmacy;

23 (C) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

24 (D) Ten grams or more of a mixture or substance containing a detectable amount of metham-
25 phetamine, its salts, isomers or salts of its isomers;

26 (E) Two hundred or more user units of a mixture or substance containing a detectable amount
27 of lysergic acid diethylamide;

28 (F) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin
29 or psilocin; or

30 (G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance con-
31 taining a detectable amount of:

32 (i) 3,4-methylenedioxyamphetamine;

33 (ii) 3,4-methylenedioxymethamphetamine; or

34 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

35 (b) The violation constitutes possession, delivery or manufacture of a controlled substance and
36 the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or
37 manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at
38 least three of the following factors:

39 (A) The delivery was of heroin, fentanyl, cocaine, methamphetamine, lysergic acid diethylamide,
40 psilocybin or psilocin and was for consideration;

41 (B) The offender was in possession of \$300 or more in cash;

42 (C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS
43 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous
44 weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly
45 or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a

1 controlled substance offense;

2 (D) The offender was in possession of materials being used for the packaging of controlled sub-
3 stances such as scales, wrapping or foil, other than the material being used to contain the substance
4 that is the subject of the offense;

5 (E) The offender was in possession of drug transaction records or customer lists;

6 (F) The offender was in possession of stolen property;

7 (G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled
8 substance offense;

9 (H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor
10 chemicals, laboratory equipment, lighting, ventilating or power generating equipment;

11 (I) The offender was using public lands for the manufacture of controlled substances;

12 (J) The offender had constructed fortifications or had taken security measures with the potential
13 of injuring persons; or

14 (K) The offender was in possession of controlled substances in an amount greater than:

15 (i) Three grams or more of a mixture or substance containing a detectable amount of heroin;

16 (ii) Three grams or more or 15 or more user units of a mixture or substance containing a de-
17 tectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the
18 State Board of Pharmacy;

19 (iii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;

20 (iv) Eight grams or more of a mixture or substance containing a detectable amount of metham-
21 phetamine;

22 (v) Twenty or more user units of a mixture or substance containing a detectable amount of
23 lysergic acid diethylamide;

24 (vi) Ten grams or more of a mixture or substance containing a detectable amount of psilocybin
25 or psilocin; or

26 (vii) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance
27 containing a detectable amount of:

28 (I) 3,4-methylenedioxyamphetamine;

29 (II) 3,4-methylenedioxymethamphetamine; or

30 (III) 3,4-methylenedioxy-N-ethylamphetamine.

31 (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.868, 475.872, 475.878,
32 475.882, 475.888, 475.892 or 475.904.

33 (d) The violation constitutes manufacturing methamphetamine and the manufacturing consists
34 of:

35 (A) A chemical reaction involving one or more precursor substances for the purpose of manu-
36 facturing methamphetamine; or

37 (B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of
38 manufacturing methamphetamine.

39 (e) The violation constitutes a violation of ORS 475.906 (1) or (2) that is not described in ORS
40 475.907.

41 **(2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category**
42 **7 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation**
43 **constitutes delivery for consideration of heroin, cocaine, fentanyl, methamphetamine or**
44 **3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or**
45 **3,4-methylenedioxy-N-ethylamphetamine and:**

1 **(a) The person knows, or reasonably should have known, that the delivery is occurring**
2 **within 500 feet of the real property comprising a treatment facility;**

3 **(b) The person knows, or reasonably should have known, that the delivery is occurring**
4 **within 500 feet of the real property comprising a temporary residence shelter; or**

5 **(c) The delivery occurs within 30 feet of the real property comprising a public park.**

6 [(2)] **(3) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category**
7 **6 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:**

8 (a) The violation constitutes delivery of heroin, cocaine, fentanyl, methamphetamine or
9 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or
10 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

11 (b) The violation constitutes possession of substantial quantities of a controlled substance. For
12 purposes of this paragraph, the following amounts constitute substantial quantities of the following
13 controlled substances:

14 (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

15 (B) Five grams or more or 25 or more user units of a mixture or substance containing a de-
16 tectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the
17 State Board of Pharmacy;

18 (C) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

19 (D) Ten grams or more of a mixture or substance containing a detectable amount of metham-
20 phetamine;

21 (E) Two hundred or more user units of a mixture or substance containing a detectable amount
22 of lysergic acid diethylamide;

23 (F) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin
24 or psilocin; or

25 (G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance con-
26 taining a detectable amount of:

27 (i) 3,4-methylenedioxyamphetamine;

28 (ii) 3,4-methylenedioxymethamphetamine; or

29 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

30 **(4) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category**
31 **5 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation**
32 **constitutes delivery of heroin, cocaine, fentanyl, methamphetamine or**
33 **3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or**
34 **3,4-methylenedioxy-N-ethylamphetamine and:**

35 **(a) The person knows, or reasonably should have known, that the delivery is occurring**
36 **within 500 feet of the real property comprising a treatment facility;**

37 **(b) The person knows, or reasonably should have known, that the delivery is occurring**
38 **within 500 feet of the real property comprising a temporary residence shelter; or**

39 **(c) The delivery occurs within 30 feet of the real property comprising a public park.**

40 [(3)] **(5) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in [subsection**
41 **(1) or (2)] subsections (1) to (4) of this section shall be classified as crime category 4 of the sen-**
42 **tencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves delivery**
43 **or manufacture of a controlled substance.**

44 [(4)] **(6) In order to prove a commercial drug offense, the state shall plead in the accusatory**
45 **instrument sufficient factors of a commercial drug offense under [subsections (1) and (2)] subsection**

1 (1) of this section. The state has the burden of proving each factor beyond a reasonable doubt.

2 [(5)] (7) As used in this section[,]:

3 (a) "Mixture or substance" means any mixture or substance, whether or not the mixture or
4 substance is in an ingestible or marketable form at the time of the offense.

5 (b) "Public park" means a park operated by the state, a county, a city or a park and re-
6 creation district.

7 (c) "Temporary residence shelter" means a building that provides shelter on a temporary
8 basis for individuals and families who lack permanent housing.

9 (d) "Treatment facility" has the meaning given that term in ORS 430.306.

10
11 (Reevaluation of Release Guidelines)

12
13 **SECTION 26.** No later than June 1, 2024, the Chief Justice of the Supreme Court, with
14 input from a criminal justice advisory committee appointed by the Chief Justice, shall ree-
15 valuate and update the release guidelines for the pretrial release orders established under
16 ORS 135.233 for persons arrested for or charged with delivery or manufacture of a controlled
17 substance.

18 **SECTION 27.** Section 26 of this 2024 Act is repealed on January 2, 2025.

19
20 (Conforming Amendments)

21
22 **SECTION 28.** ORS 475.752 is amended to read:

23 475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
24 for any person to manufacture or deliver a controlled substance. Any person who violates this sub-
25 section with respect to:

26 (a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise pro-
27 vided in ORS 475.886 and 475.890.

28 (b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise
29 provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906.

30 (c) A controlled substance in Schedule III, is guilty of a Class C felony, except as otherwise
31 provided in ORS 475.904 and 475.906.

32 (d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

33 (e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

34 (2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any
35 person to create or deliver a counterfeit substance. Any person who violates this subsection with
36 respect to:

37 (a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

38 (b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

39 (c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

40 (d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.

41 (e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.

42 (3) It is unlawful for any person knowingly or intentionally to possess a controlled substance
43 unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a
44 practitioner while acting in the course of professional practice, or except as otherwise authorized
45 by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with re-

1 spect to:

2 (a) A controlled substance in Schedule I, is guilty of a Class E violation, except as otherwise
3 provided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

4 (b) A controlled substance in Schedule II, is guilty of a Class E violation, except as otherwise
5 provided in ORS 475.814, 475.824, 475.834 or 475.884 or subsection (8) of this section.

6 (c) A controlled substance in Schedule III, is guilty of a Class E violation.

7 (d) A controlled substance in Schedule IV, is guilty of a Class E violation.

8 (e) A controlled substance in Schedule V, is guilty of a violation.

9 (4) It is an affirmative defense in any prosecution under this section for manufacture, possession
10 or delivery of the plant of the genus *Lophophora* commonly known as peyote that the peyote is being
11 used or is intended for use:

12 (a) In connection with the good faith practice of a religious belief;

13 (b) As directly associated with a religious practice; and

14 (c) In a manner that is not dangerous to the health of the user or others who are in the prox-
15 imity of the user.

16 (5) The affirmative defense created in subsection (4) of this section is not available to any person
17 who has possessed or delivered the peyote while incarcerated in a correctional facility in this state.

18 (6)(a) Notwithstanding subsection (1) of this section, a person who unlawfully manufactures or
19 delivers a controlled substance in Schedule IV and who thereby causes death to another person is
20 guilty of a Class C felony.

21 (b) For purposes of this subsection, causation is established when the controlled substance plays
22 a substantial role in the death of the other person.

23 (7) Notwithstanding subsection (3)(a) of this section:

24 (a) Unlawful possession of a controlled substance in Schedule I is a Class A misdemeanor if the
25 person possesses:

26 (A) Forty or more user units of a mixture or substance containing a detectable amount of
27 lysergic acid diethylamide; or

28 (B) Twelve grams or more of a mixture or substance containing a detectable amount of
29 psilocybin or psilocin.

30 (b) Unlawful possession of a controlled substance in Schedule I is a Class B felony if:

31 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

32 (B) The person possesses a substantial quantity under ORS 475.900 [(2)(b)] **(3)(b)**.

33 (8) Notwithstanding subsection (3)(b) of this section:

34 (a) Unlawful possession of a controlled substance in Schedule II is a Class A misdemeanor if the
35 person possesses one gram or more or five or more user units of a mixture or substance containing
36 a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of
37 the State Board of Pharmacy.

38 (b) Unlawful possession of a controlled substance in Schedule II is a Class C felony if:

39 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

40 (B) The person possesses a substantial quantity under ORS 475.900 [(2)(b)] **(3)(b)**.

41 **SECTION 29.** ORS 475.854 is amended to read:

42 475.854. (1) It is unlawful for any person knowingly or intentionally to possess heroin.

43 (2)(a) Unlawful possession of heroin is a Class E violation.

44 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class
45 A misdemeanor if the person possesses one gram or more of a mixture or substance containing a

1 detectable amount of heroin.

2 (c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of heroin is
3 a Class B felony if:

4 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

5 (B) The person possesses a substantial quantity under ORS 475.900 [(2)(b)] **(3)(b)**.

6 **SECTION 30.** ORS 475.874 is amended to read:

7 475.874. (1) It is unlawful for any person knowingly or intentionally to possess
8 3,4-methylenedioxyamphetamine.

9 (2)(a) Unlawful possession of 3,4-methylenedioxyamphetamine is a Class E violation.

10 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of
11 3,4-methylenedioxyamphetamine is a Class A misdemeanor if the person possesses one gram or
12 more or five or more pills, tablets or capsules of a mixture or substance containing a detectable
13 amount of:

14 (A) 3,4-methylenedioxyamphetamine;

15 (B) 3,4-methylenedioxyamphetamine; or

16 (C) 3,4-methylenedioxy-N-ethylamphetamine.

17 (c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of
18 3,4-methylenedioxyamphetamine is a Class B felony if:

19 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

20 (B) The person possesses a substantial quantity under ORS 475.900 [(2)(b)] **(3)(b)**.

21 **SECTION 31.** ORS 475.884 is amended to read:

22 475.884. (1) It is unlawful for any person knowingly or intentionally to possess cocaine unless
23 the substance was obtained directly from, or pursuant to[,] a valid prescription or order of, a prac-
24 titioner while acting in the course of professional practice, or except as otherwise authorized by
25 ORS 475.005 to 475.285 and 475.752 to 475.980.

26 (2)(a) Unlawful possession of cocaine is a Class E violation.

27 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a Class
28 A misdemeanor if the person possesses two grams or more of a mixture or substance containing a
29 detectable amount of cocaine.

30 (c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of cocaine is
31 a Class C felony if:

32 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

33 (B) The person possesses a substantial quantity under ORS 475.900 [(2)(b)] **(3)(b)**.

34 **SECTION 32.** ORS 475.894 is amended to read:

35 475.894. (1) It is unlawful for any person knowingly or intentionally to possess methamphetamine
36 unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a
37 practitioner while acting in the course of professional practice, or except as otherwise authorized
38 by ORS 475.005 to 475.285 and 475.752 to 475.980.

39 (2)(a) Unlawful possession of methamphetamine is a Class E violation.

40 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine
41 is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance
42 containing a detectable amount of methamphetamine.

43 (c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of metham-
44 phetamine is a Class C felony if:

45 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

1 (B) The person possesses a substantial quantity under ORS 475.900 [(2)(b)] (3)(b).

2
3 (Applicability)

4
5 **SECTION 33.** The amendments to ORS 475.005, 475.752, 475.854, 475.874, 475.884, 475.894
6 and 475.900 by sections 24, 25 and 28 to 32 of this 2024 Act apply to conduct occurring on or
7 after the effective date of this 2024 Act.

8
9 **POSSESSION OF CONTROLLED SUBSTANCES**
10 **(Drug Enforcement Misdemeanor Provisions)**

11
12 **SECTION 34.** Section 35 of this 2024 Act is added to and made a part of ORS 475.752 to
13 475.980.

14 **SECTION 35.** (1) Unlawful possession of a controlled substance constituting a drug
15 enforcement misdemeanor under ORS 475.752 (3)(a), (b), (c) or (d), 475.814 (2)(a), 475.824
16 (2)(a), 475.834 (2)(a), 475.854 (2)(a), 475.874 (2)(a), 475.884 (2)(a) or 475.894 (2)(a) is punishable
17 as described in this section.

18 (2)(a) When imposing a sentence for the crime described in this section:

19 (A) The court may decide to not suspend the imposition or execution of any part of the
20 sentence, and impose a term of incarceration in accordance with ORS 137.010 (7) of up to 180
21 days, only upon the request of the defendant.

22 (B) If the defendant has not requested to be sentenced under subparagraph (A) of this
23 paragraph, or if the court has decided not to sentence the defendant under subparagraph (A)
24 of this paragraph, the court shall suspend the imposition of any sentence of incarceration
25 and, notwithstanding ORS 137.010 (4), impose a sentence of supervised probation of a definite
26 period of up to 18 months.

27 (b) When imposing a sentence of probation under this section, the court may not order
28 as a condition of probation that the defendant serve a sentence of incarceration or confine-
29 ment in the county jail.

30 (c) Notwithstanding ORS 135.050, 137.010 (7), 161.635 and 161.665, the court may not in-
31 clude in the judgment of conviction for the crime described in this section a requirement
32 that the defendant pay a fine, cost, assessment or attorney fee.

33 (d) ORS 137.540 (2)(a) does not apply to sentences imposed under this section.

34 (3)(a) Structured, intermediate sanctions as described in ORS 137.593 may be imposed in
35 accordance with rules adopted under ORS 137.595 when a condition of a term of probation
36 imposed under this section has been violated.

37 (b) Upon a finding that the person on probation has violated a condition of probation
38 imposed under this section, the court may impose a sanction, which may include days in jail.

39 (c) The total amount of jail that a person may receive pursuant to structured, interme-
40 diate sanctions, or a court-imposed sanctions, on a probation imposed under this section is
41 30 days. Any term of incarceration imposed as a sanction must allow for early release to a
42 treatment facility.

43 (d) The court may extend the length of a probation sentence imposed under this section
44 if the person on probation consents to the extension. The total term of probation may not
45 exceed five years.

1 (4)(a) Notwithstanding ORS 137.545 (5)(a)(B) and 137.593, upon the court's revocation of
2 a sentence of probation imposed under this section, the court may impose as a revocation
3 sentence up to 180 days' incarceration. For any sentence of incarceration imposed under this
4 paragraph, the court shall authorize early release to an inpatient or outpatient drug and
5 alcohol treatment program as described in paragraph (b) of this subsection.

6 (b) Upon imposing a revocation sentence of incarceration under this subsection, the
7 court shall commit the person to the custody of the supervisory authority under ORS 137.124.
8 The county community corrections agency shall monitor when an inpatient or outpatient
9 drug and alcohol treatment program becomes available for the person and shall notify the
10 person when a program is available. In order to be released early to the program, the person
11 must enter into a revocation release agreement subject to such conditions as determined by
12 the county community corrections agency. If the person violates the terms of the revocation
13 release agreement, the county community corrections agency may cause the person to re-
14 turn to jail to serve the remainder of the incarceration sentence originally imposed.

15 (c) When a person has been released to an inpatient or outpatient drug and alcohol
16 treatment program under paragraph (b) of this subsection, each day that the person is in the
17 community and subject to the revocation release agreement shall count toward the total
18 term of incarceration imposed as a revocation sentence.

19 (d) When imposing a revocation sentence of incarceration under this section, the court
20 shall order, and may not deny, that the person receive credit for time served for any day that
21 the person was previously incarcerated on the charge.

22
23 (Deflection Programs)
24

25 **SECTION 36.** (1) Law enforcement agencies in this state are encouraged to, in lieu of
26 citation or arrest, or after citation or arrest but before referral to the district attorney, re-
27 fer a person to a deflection program when the person is suspected of committing, or has been
28 cited or arrested for, unlawful possession of a controlled substance constituting a drug
29 enforcement misdemeanor under section 35 of this 2024 Act.

30 (2) District attorneys in this state are encouraged to divert for assessment, treatment
31 and other services, in lieu of conviction, cases involving unlawful possession of a controlled
32 substance constituting a drug enforcement misdemeanor under section 35 of this 2024 Act.

33 (3) If a deflection program is established, the program coordinator shall be responsible
34 for providing notification that a person has completed the program to those entities re-
35 sponsible for sealing records under section 54 of this 2024 Act, including but not limited to
36 law enforcement agencies, district attorneys and courts.

37 (4) As used in this section, "deflection program" has the meaning given that term in
38 section 37 of this 2024 Act.

39 **SECTION 37.** (1) The Oregon Criminal Justice Commission shall establish a statewide
40 system for tracking simple, clear and meaningful data concerning deflection program out-
41 comes, including connections to social services and criminal justice system avoidance, and
42 other data deemed relevant that is timely and easily accessed to inform best practices and
43 improve outcomes for individual program participants.

44 (2)(a) No later than 12 months after the effective date of this 2024 Act, the commission
45 shall conduct a study to determine best practices for deflection programs and make recom-

1 **mendations for funding of the Oregon Behavioral Health Deflection Program described in**
2 **section 76 of this 2024 Act. In making the recommendations described in this paragraph, the**
3 **commission shall consider the best available information and projections regarding deflection**
4 **programs in this state.**

5 **(b) No later than 18 months after the effective date of this 2024 Act, the commission shall**
6 **develop standards and best practices for deflection programs in this state based on infor-**
7 **mation received from the programs and pursuant to sections 76 and 77 of this 2024 Act.**

8 **(3) The commission shall maintain a list of deflection programs operating within this**
9 **state, and shall make the list publicly available on the website of the commission.**

10 **(4) As used in this section, “deflection program” means a collaborative program between**
11 **law enforcement agencies and behavioral health entities that assists individuals who may**
12 **have substance use disorder, another behavioral health disorder or co-occurring disorders,**
13 **to create community-based pathways to treatment, recovery support services, housing, case**
14 **management or other services.**

15 **SECTION 38.** ORS 133.060 is amended to read:

16 133.060. (1) **Except as provided in subsections (3) and (4) of this section,** a person who has
17 been served with a criminal citation shall appear before a magistrate of the county in which the
18 person was cited at the time, date and court specified in the citation, which shall not be later than
19 30 days after the date the citation was issued.

20 (2) If the cited person fails to appear at the time, date and court specified in the criminal cita-
21 tion, and a complaint or information is filed, the magistrate shall issue a warrant of arrest, upon
22 application for its issuance, upon the person’s failure to appear.

23 (3)(a) Notwithstanding subsection (1) of this section, during a period of statewide emergency, the
24 date specified in a criminal citation on which a person served with the citation shall appear may
25 be more than 30 days after the date the citation was issued.

26 (b) During a period of statewide emergency, the presiding judge of a circuit court may, upon the
27 motion of a party or the court’s own motion, and upon a finding of good cause, postpone the date
28 of appearance described in paragraph (a) of this subsection for all proceedings within the jurisdic-
29 tion of the court.

30 (c) The presiding judge may delegate the authority described in paragraph (b) of this subsection
31 to another judge of the court.

32 (d) Nothing in this subsection affects the rights of a defendant under the Oregon and United
33 States Constitutions.

34 (e) As used in this subsection, “period of statewide emergency” means the period of time during
35 which any declaration of a state of emergency under ORS 401.165, public health emergency under
36 ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the Oregon Constitution, issued
37 by the Governor, and any extension of the declaration, is in effect, and continuing for 60 days after
38 the declaration and any extension is no longer in effect.

39 **(4) Notwithstanding subsection (1) of this section, the date specified in a criminal citation**
40 **on which a person served with the citation shall appear may be more than 30 days after the**
41 **date the citation was issued for purposes of allowing the person to participate in a deflection**
42 **program as defined in section 37 of this 2024 Act.**

43
44 **(Drug Enforcement Misdemeanor Conforming Amendments)**
45

1 **SECTION 39.** ORS 475.752, as amended by section 28 of this 2024 Act, is amended to read:

2 475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
3 for any person to manufacture or deliver a controlled substance. Any person who violates this sub-
4 section with respect to:

5 (a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise pro-
6 vided in ORS 475.886 and 475.890.

7 (b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise
8 provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906.

9 (c) A controlled substance in Schedule III, is guilty of a Class C felony, except as otherwise
10 provided in ORS 475.904 and 475.906.

11 (d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

12 (e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

13 (2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any
14 person to create or deliver a counterfeit substance. Any person who violates this subsection with
15 respect to:

16 (a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

17 (b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

18 (c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

19 (d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.

20 (e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.

21 (3) It is unlawful for any person knowingly or intentionally to possess a controlled substance
22 unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a
23 practitioner while acting in the course of professional practice, or except as otherwise authorized
24 by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with re-
25 spect to:

26 (a) A controlled substance in Schedule I, is guilty of a [*Class E violation*] **drug enforcement**
27 **misdemeanor punishable as described in section 35 of this 2024 Act**, except as otherwise pro-
28 vided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

29 (b) A controlled substance in Schedule II, is guilty of a [*Class E violation*] **drug enforcement**
30 **misdemeanor punishable as described in section 35 of this 2024 Act**, except as otherwise pro-
31 vided in ORS 475.814, 475.824, 475.834 or 475.884 or subsection (8) of this section.

32 (c) A controlled substance in Schedule III, is guilty of a [*Class E violation*] **drug enforcement**
33 **misdemeanor punishable as described in section 35 of this 2024 Act**.

34 (d) A controlled substance in Schedule IV, is guilty of a [*Class E violation*] **drug enforcement**
35 **misdemeanor punishable as described in section 35 of this 2024 Act**.

36 (e) A controlled substance in Schedule V, is guilty of a violation.

37 (4) It is an affirmative defense in any prosecution under this section for manufacture, possession
38 or delivery of the plant of the genus *Lophophora* commonly known as peyote that the peyote is being
39 used or is intended for use:

40 (a) In connection with the good faith practice of a religious belief;

41 (b) As directly associated with a religious practice; and

42 (c) In a manner that is not dangerous to the health of the user or others who are in the prox-
43 imity of the user.

44 (5) The affirmative defense created in subsection (4) of this section is not available to any person
45 who has possessed or delivered the peyote while incarcerated in a correctional facility in this state.

1 (6)(a) Notwithstanding subsection (1) of this section, a person who unlawfully manufactures or
2 delivers a controlled substance in Schedule IV and who thereby causes death to another person is
3 guilty of a Class C felony.

4 (b) For purposes of this subsection, causation is established when the controlled substance plays
5 a substantial role in the death of the other person.

6 (7) Notwithstanding subsection (3)(a) of this section:

7 (a) Unlawful possession of a controlled substance in Schedule I is a Class A misdemeanor if the
8 person possesses:

9 (A) Forty or more user units of a mixture or substance containing a detectable amount of
10 lysergic acid diethylamide; or

11 (B) Twelve grams or more of a mixture or substance containing a detectable amount of
12 psilocybin or psilocin.

13 (b) Unlawful possession of a controlled substance in Schedule I is a Class B felony if:

14 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

15 (B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

16 (8) Notwithstanding subsection (3)(b) of this section:

17 (a) Unlawful possession of a controlled substance in Schedule II is a Class A misdemeanor if the
18 person possesses one gram or more or five or more user units of a mixture or substance containing
19 a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of
20 the State Board of Pharmacy.

21 (b) Unlawful possession of a controlled substance in Schedule II is a Class C felony if:

22 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

23 (B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

24 **SECTION 40.** ORS 475.814 is amended to read:

25 475.814. (1) It is unlawful for any person knowingly or intentionally to possess hydrocodone un-
26 less the hydrocodone was obtained directly from, or pursuant to a valid prescription or order of, a
27 practitioner while acting in the course of professional practice, or except as otherwise authorized
28 by ORS 475.005 to 475.285 and 475.752 to 475.980.

29 (2)(a) Unlawful possession of hydrocodone is a [*Class E violation*] **drug enforcement**
30 **misdemeanor punishable as described in section 35 of this 2024 Act.**

31 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of hydrocodone is a
32 Class A misdemeanor if:

33 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

34 (B) The person possesses 40 or more pills, tablets, capsules or user units of a mixture or sub-
35 stance containing a detectable amount of hydrocodone.

36 **SECTION 41.** ORS 475.824 is amended to read:

37 475.824. (1) It is unlawful for any person knowingly or intentionally to possess methadone unless
38 the methadone was obtained directly from, or pursuant to a valid prescription or order of, a prac-
39 titioner while acting in the course of professional practice, or except as otherwise authorized by
40 ORS 475.005 to 475.285 and 475.752 to 475.980.

41 (2)(a) Unlawful possession of methadone is a [*Class E violation*] **drug enforcement**
42 **misdemeanor punishable as described in section 35 of this 2024 Act.**

43 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a
44 Class A misdemeanor if the person possesses 40 or more user units of a mixture or substance con-
45 taining a detectable amount of methadone.

1 (c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of methadone
2 is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

3 **SECTION 42.** ORS 475.834 is amended to read:

4 475.834. (1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless
5 the oxycodone was obtained directly from, or pursuant to a valid prescription or order of, a practi-
6 tioner while acting in the course of professional practice, or except as otherwise authorized by ORS
7 475.005 to 475.285 and 475.752 to 475.980.

8 (2)(a) Unlawful possession of oxycodone is a [*Class E violation*] **drug enforcement**
9 **misdemeanor punishable as described in section 35 of this 2024 Act.**

10 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of oxycodone is a Class
11 A misdemeanor if the person possesses 40 or more pills, tablets, capsules or user units of a mixture
12 or substance containing a detectable amount of oxycodone.

13 (c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of oxycodone
14 is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

15 **SECTION 43.** ORS 475.854, as amended by section 29 of this 2024 Act, is amended to read:

16 475.854. (1) It is unlawful for any person knowingly or intentionally to possess heroin.

17 (2)(a) Unlawful possession of heroin is a [*Class E violation*] **drug enforcement misdemeanor**
18 **punishable as described in section 35 of this 2024 Act.**

19 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class
20 A misdemeanor if the person possesses one gram or more of a mixture or substance containing a
21 detectable amount of heroin.

22 (c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of heroin is
23 a Class B felony if:

24 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

25 (B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

26 **SECTION 44.** ORS 475.874, as amended by section 30 of this 2024 Act, is amended to read:

27 475.874. (1) It is unlawful for any person knowingly or intentionally to possess
28 3,4-methylenedioxymethamphetamine.

29 (2)(a) Unlawful possession of 3,4-methylenedioxymethamphetamine is a [*Class E violation*] **drug**
30 **enforcement misdemeanor punishable as described in section 35 of this 2024 Act.**

31 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of
32 3,4-methylenedioxymethamphetamine is a Class A misdemeanor if the person possesses one gram or
33 more or five or more pills, tablets or capsules of a mixture or substance containing a detectable
34 amount of:

35 (A) 3,4-methylenedioxyamphetamine;

36 (B) 3,4-methylenedioxymethamphetamine; or

37 (C) 3,4-methylenedioxy-N-ethylamphetamine.

38 (c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of
39 3,4-methylenedioxymethamphetamine is a Class B felony if:

40 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

41 (B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

42 **SECTION 45.** ORS 475.884, as amended by section 31 of this 2024 Act, is amended to read:

43 475.884. (1) It is unlawful for any person knowingly or intentionally to possess cocaine unless
44 the substance was obtained directly from, or pursuant to a valid prescription or order of, a practi-
45 tioner while acting in the course of professional practice, or except as otherwise authorized by ORS

1 475.005 to 475.285 and 475.752 to 475.980.

2 (2)(a) Unlawful possession of cocaine is a [*Class E violation*] **drug enforcement misdemeanor**
3 **punishable as described in section 35 of this 2024 Act.**

4 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a Class
5 A misdemeanor if the person possesses two grams or more of a mixture or substance containing a
6 detectable amount of cocaine.

7 (c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of cocaine is
8 a Class C felony if:

9 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

10 (B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

11 **SECTION 46.** ORS 475.894, as amended by section 32 of this 2024 Act, is amended to read:

12 475.894. (1) It is unlawful for any person knowingly or intentionally to possess methamphetamine
13 unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a
14 practitioner while acting in the course of professional practice, or except as otherwise authorized
15 by ORS 475.005 to 475.285 and 475.752 to 475.980.

16 (2)(a) Unlawful possession of methamphetamine is a [*Class E violation*] **drug enforcement**
17 **misdemeanor punishable as described in section 35 of this 2024 Act.**

18 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine
19 is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance
20 containing a detectable amount of methamphetamine.

21 (c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of metham-
22 phetamine is a Class C felony if:

23 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

24 (B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

25 **SECTION 46a.** ORS 135.753 is amended to read:

26 135.753. (1) If the court directs the charge or action to be dismissed, the defendant, if in custody,
27 shall be discharged. If the defendant has been released, the release agreement is exonerated and
28 security deposited shall be refunded to the defendant.

29 (2) An order for the dismissal of a charge or action, as provided in ORS 135.703 to 135.709 and
30 135.745 to 135.757, is a bar to another prosecution for the same crime if the crime is a Class B or
31 C misdemeanor; but it is not a bar if the crime charged is a Class A misdemeanor, **a misdemeanor**
32 **described in section 35 of this 2024 Act** or a felony.

33 (3) If any charge or action is dismissed for the purpose of consolidation with one or more other
34 charges or actions, then any such dismissal shall not be a bar to another prosecution for the same
35 offense.

36
37 **(Supervision Duty and Funding)**

38
39 **SECTION 47.** ORS 423.478 is amended to read:

40 423.478. (1) The Department of Corrections shall:

41 (a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;

42 (b) Provide central information and data services sufficient to:

43 (A) Allow tracking of offenders; and

44 (B) Permit analysis of correlations between sanctions, supervision, services and programs, and
45 future criminal conduct; and

1 (c) Provide interstate compact administration and jail inspections.

2 (2) Subject to ORS 423.483, each county, in partnership with the department, shall assume re-
3 sponsibility for community-based supervision, sanctions and services for offenders convicted of felo-
4 nies, designated drug-related misdemeanors or designated person misdemeanors, **or persons who**
5 **have entered into a probation agreement on a drug enforcement misdemeanor pursuant to**
6 **section 52 of this 2024 Act**, who are:

7 (a) On parole;

8 (b) On probation;

9 (c) On post-prison supervision;

10 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

11 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-
12 Prison Supervision to 12 months or less incarceration for violation of a condition of parole, pro-
13 bation or post-prison supervision; or

14 (f) On conditional release under ORS 420A.206.

15 (3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration,
16 when an offender is committed to the custody of the supervisory authority of a county under ORS
17 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other
18 than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority
19 releases a person from custody under this subsection and the person is required to report as a sex
20 offender under ORS 163A.010, the supervisory authority, as a condition of release, shall order the
21 person to report to the Department of State Police, a city police department or a county sheriff's
22 office or to the supervising agency, if any:

23 (a) When the person is released;

24 (b) Within 10 days of a change of residence;

25 (c) Once each year within 10 days of the person's birth date;

26 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an
27 institution of higher education; and

28 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher
29 education.

30 (4) As used in this section:

31 (a) "Attends," "institution of higher education," "works" and "carries on a vocation" have the
32 meanings given those terms in ORS 163A.005.

33 (b) "Designated drug-related misdemeanor" means:

34 **(A) Unlawful possession of a Schedule I controlled substance under ORS 475.752 (3)(a);**

35 **(B) Unlawful possession of a Schedule II controlled substance under ORS 475.752 (3)(b);**

36 **(C) Unlawful possession of a Schedule III controlled substance under ORS 475.752 (3)(c);**

37 **(D) Unlawful possession of a Schedule IV controlled substance under ORS 475.752 (3)(d);**

38 **(E) Unlawful possession of a Schedule I controlled substance under ORS 475.752 (7)(a);**

39 **[(A)] (F) Unlawful possession of fentanyl under ORS 475.752 (8)(a);**

40 **(G) Unlawful possession of hydrocodone under ORS 475.814 (2)(a);**

41 **(H) Unlawful possession of hydrocodone under ORS 475.814 (2)(b);**

42 **(I) Unlawful possession of methadone under ORS 475.824 (2)(a);**

43 **[(B)] (J) Unlawful possession of methadone under ORS 475.824 (2)(b);**

44 **(K) Unlawful possession of oxycodone under ORS 475.834 (2)(a);**

45 **[(C)] (L) Unlawful possession of oxycodone under ORS 475.834 (2)(b);**

1 **(M) Unlawful possession of heroin under ORS 475.854 (2)(a);**

2 [(D)] **(N) Unlawful possession of heroin under ORS 475.854 (2)(b);**

3 **(O) Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874**
4 **(2)(a);**

5 [(E)] **(P) Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 (2)(b);**

6 **(Q) Unlawful possession of cocaine under ORS 475.884 (2)(a);**

7 [(F)] **(R) Unlawful possession of cocaine under ORS 475.884 (2)(b); [or]**

8 **(S) Unlawful possession of methamphetamine under ORS 475.894 (2)(a); or**

9 [(G)] **(T) Unlawful possession of methamphetamine under ORS 475.894 (2)(b).**

10 (c) “Designated person misdemeanor” means:

11 (A) Assault in the fourth degree constituting domestic violence if the judgment document is as
12 described in ORS 163.160 (4);

13 (B) Menacing constituting domestic violence if the judgment document is as described in ORS
14 163.190 (3); or

15 (C) Sexual abuse in the third degree under ORS 163.415.

16 **SECTION 48.** ORS 423.483 is amended to read:

17 423.483. (1)(a) The baseline funding for biennia beginning after June 30, 1999, is the current
18 service level for the expenses of providing management, support services, supervision and sanctions
19 for offenders described in ORS 423.478 (2). At a minimum, each biennium’s appropriation must be
20 established at this baseline.

21 (b) The baseline funding described in paragraph (a) of this subsection:

22 (A) May not be decreased as a result of a reduction under ORS 137.633.

23 (B) May not be increased as a result of community-based sanctions, services and programs that
24 are funded under section 53, chapter 649, Oregon Laws 2013.

25 (2) If the total state community corrections appropriation is less than the baseline calculated
26 under subsection (1) of this section, a county may discontinue participation by written notification
27 to the director 180 days prior to implementation of the change. If a county discontinues partic-
28 ipation, the responsibility for correctional services transferred to the county and the portion of
29 funding made available to the county under ORS 423.530 revert to the Department of Corrections.
30 Responsibility for supervision of and provision of correctional services to misdemeanor offenders
31 does not revert to the department under any circumstances except those of offenders convicted of
32 designated drug-related misdemeanors or designated person misdemeanors, **or of persons who have**
33 **entered into a probation agreement on a drug enforcement misdemeanor pursuant to section**
34 **52 of this 2024 Act.**

35 (3) As used in this section:

36 (a) “Current service level” means the calculated cost of continuing current legislatively funded
37 programs, phased in programs and increased caseloads minus one-time costs, decreased caseloads,
38 phased out programs and pilot programs with the remainder adjusted for inflation as determined by
39 the Legislative Assembly in its biennial appropriation to the Department of Corrections.

40 (b) “Designated drug-related misdemeanor” has the meaning given that term in ORS 423.478.

41 (c) “Designated person misdemeanor” has the meaning given that term in ORS 423.478.

42 **SECTION 49.** ORS 423.483, as amended by section 22, chapter 649, Oregon Laws 2013, section
43 3, chapter 140, Oregon Laws 2015, and section 2, chapter 341, Oregon Laws 2023, is amended to
44 read:

45 423.483. (1)(a) The baseline funding for biennia beginning after June 30, 1999, is the current

1 service level for the expenses of providing management, support services, supervision and sanctions
2 for offenders described in ORS 423.478 (2). At a minimum, each biennium's appropriation must be
3 established at this baseline.

4 (b) The baseline funding described in paragraph (a) of this subsection may not be decreased as
5 a result of a reduction under ORS 137.633.

6 (2) If the total state community corrections appropriation is less than the baseline calculated
7 under subsection (1) of this section, a county may discontinue participation by written notification
8 to the director 180 days prior to implementation of the change. If a county discontinues partic-
9 ipation, the responsibility for correctional services transferred to the county and the portion of
10 funding made available to the county under ORS 423.530 revert to the Department of Corrections.
11 Responsibility for supervision of and provision of correctional services to misdemeanor offenders
12 does not revert to the department under any circumstances except those of offenders convicted of
13 designated drug-related misdemeanors or designated person misdemeanors, **or of persons who have**
14 **entered into a probation agreement on a drug enforcement misdemeanor pursuant to section**
15 **52 of this 2024 Act.**

16 (3) As used in this section:

17 (a) "Current service level" means the calculated cost of continuing current legislatively funded
18 programs, phased in programs and increased caseloads minus one-time costs, decreased caseloads,
19 phased out programs and pilot programs with the remainder adjusted for inflation as determined by
20 the Legislative Assembly in its biennial appropriation to the Department of Corrections.

21 (b) "Designated drug-related misdemeanor" has the meaning given that term in ORS 423.478.

22 (c) "Designated person misdemeanor" has the meaning given that term in ORS 423.478.

23 **SECTION 50.** ORS 423.525 is amended to read:

24 423.525. (1) A county, group of counties or intergovernmental corrections entity shall apply to
25 the Director of the Department of Corrections in a manner and form prescribed by the director for
26 funding made available under ORS 423.500 to 423.560. The application shall include a community
27 corrections plan. The Department of Corrections shall provide consultation and technical assistance
28 to counties to aid in the development and implementation of community corrections plans.

29 (2)(a) From July 1, 1995, until June 30, 1999, a county, group of counties or intergovernmental
30 corrections entity may make application requesting funding for the construction, acquisition, ex-
31 pansion or remodeling of correctional facilities to serve the county, group of counties or intergov-
32 ernmental corrections entity. The department shall review the application for funding of
33 correctional facilities in accordance with criteria that consider design, cost, capacity, need, operat-
34 ing efficiency and viability based on the county's, group of counties' or intergovernmental cor-
35 rections entity's ability to provide for ongoing operations.

36 (b)(A) If the application is approved, the department shall present the application with a request
37 to finance the facility with financing agreements to the State Treasurer and the Director of the
38 Oregon Department of Administrative Services. Except as otherwise provided in subparagraph (B)
39 of this paragraph, upon approval of the request by the State Treasurer and the Director of the
40 Oregon Department of Administrative Services, the facility may be financed with financing agree-
41 ments, and certificates of participation issued pursuant thereto, as provided in ORS 283.085 to
42 283.092. All decisions approving or denying applications and requests for financing under this sec-
43 tion are final. No such decision is subject to judicial review of any kind.

44 (B) If requests to finance county correctional facility projects are submitted after February 22,
45 1996, and the requests have not been approved by the department on the date a session of the

1 Legislative Assembly convenes, the requests are also subject to the approval of the Legislative As-
2 ssembly.

3 (c) After approval but prior to the solicitation of bids or proposals for the construction of a
4 project, the county, group of counties or intergovernmental corrections entity and the department
5 shall enter into a written agreement that determines the procedures, and the parties responsible, for
6 the awarding of contracts and the administration of the construction project for the approved
7 correctional facility. If the parties are unable to agree on the terms of the written agreement, the
8 Governor shall decide the terms of the agreement. The Governor's decision is final.

9 (d) After approval of a construction project, the administration of the project shall be conducted
10 as provided in the agreement required by paragraph (c) of this subsection. The agreement must re-
11 quire at a minimum that the county, group of counties or intergovernmental corrections entity shall
12 submit to the department any change order or alteration of the design of the project that, singly or
13 in the aggregate, reduces the capacity of the correctional facility or materially changes the services
14 or functions of the project. The change order or alteration is not effective until approved by the
15 department. In reviewing the change order or alteration, the department shall consider whether the
16 implementation of the change order or alteration will have any material adverse impact on the
17 parties to any financing agreements or the holders of any certificates of participation issued to fund
18 county correctional facilities under this section. In making its decision, the department may rely on
19 the opinions of the Department of Justice, bond counsel or professional financial advisers.

20 (3) Notwithstanding ORS 283.085, for purposes of this section, "financing agreement" means a
21 lease purchase agreement, an installment sale agreement, a loan agreement or any other agreement
22 to finance a correctional facility described in this section, or to refinance a previously executed fi-
23 nancing agreement for the financing of a correctional facility. The state is not required to own or
24 operate a correctional facility in order to finance it under ORS 283.085 to 283.092 and this section.
25 The state, an intergovernmental corrections entity, county or group of counties may enter into any
26 agreements, including, but not limited to, leases and subleases, that are reasonably necessary or
27 generally accepted by the financial community for purposes of acquiring or securing financing as
28 authorized by this section. In financing county correctional facilities under this section, "property
29 rights" as used in ORS 283.085 includes leasehold mortgages of the state's rights under leases of
30 correctional facilities from counties.

31 (4) Notwithstanding any other provision of state law, county charter or ordinance, a county may
32 convey or lease to the State of Oregon, acting by and through the Department of Corrections, title
33 to interests in, or a lease of, any real property, facilities or personal property owned by the county
34 for the purpose of financing the construction, acquisition, expansion or remodeling of a correctional
35 facility. Upon the payment of all principal and interest on, or upon any other satisfaction of, the
36 financing agreement used to finance the construction, acquisition, expansion or remodeling of a
37 correctional facility, the state shall reconvey its interest in, or terminate and surrender its leasehold
38 of, the property or facilities, including the financed construction, acquisition, expansion or remod-
39 eling, to the county. In addition to any authority granted by ORS 283.089, for the purposes of ob-
40 taining financing, the state may enter into agreements under which the state may grant to trustees
41 or lenders leases, subleases and other security interests in county property conveyed or leased to
42 the state under this subsection and in the property or facilities financed by financing agreements.

43 (5) In connection with the financing of correctional facilities, the Director of the Oregon De-
44 partment of Administrative Services may bill the Department of Corrections, and the Department
45 of Corrections shall pay the amounts billed, in the same manner as provided in ORS 283.089. As

1 required by ORS 283.091, the Department of Corrections and the Oregon Department of Adminis-
2 trative Services shall include in the Governor's budget all amounts that will be due in each fiscal
3 period under financing agreements for correctional facilities. Amounts payable by the state under
4 a financing agreement for the construction, acquisition, expansion or remodeling of a correctional
5 facility are limited to available funds as defined in ORS 283.085, and no lender, trustee, certificate
6 holder or county has any claim or recourse against any funds of the state other than available funds.

7 (6) The director shall adopt rules that may be necessary for the administration, evaluation and
8 implementation of ORS 423.500 to 423.560. The standards shall be sufficiently flexible to foster the
9 development of new and improved supervision or rehabilitative practices and maximize local control.

10 (7) When a county assumes responsibility under ORS 423.500 to 423.560 for correctional services
11 previously provided by the department, the county and the department shall enter into an inter-
12 governmental agreement that includes a local community corrections plan consisting of program
13 descriptions, budget allocation, performance objectives and methods of evaluating each correctional
14 service to be provided by the county. The performance objectives must include in dominant part
15 reducing future criminal conduct. The methods of evaluating services must include, to the extent
16 of available information systems resources, the collection and analysis of data sufficient to deter-
17 mine the apparent effect of the services on future criminal conduct.

18 (8) All community corrections plans shall comply with rules adopted pursuant to ORS 423.500
19 to 423.560, and shall include but need not be limited to an outline of the basic structure and the
20 supervision, services and local sanctions to be applied to offenders convicted of felonies, designated
21 drug-related misdemeanors and designated person misdemeanors, **or persons who have entered**
22 **into a probation agreement on a drug enforcement misdemeanor pursuant to section 52 of**
23 **this 2024 Act**, who are:

24 (a) On parole;

25 (b) On probation;

26 (c) On post-prison supervision;

27 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

28 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-
29 Prison Supervision to 12 months or less incarceration for a violation of a condition of parole, pro-
30 bation or post-prison supervision; and

31 (f) On conditional release under ORS 420A.206.

32 (9) All community corrections plans shall designate a community corrections manager of the
33 county or counties and shall provide that the administration of community corrections under ORS
34 423.500 to 423.560 shall be under such manager.

35 (10) No amendment to or modification of a county-approved community corrections plan shall
36 be placed in effect without prior notice to the director for purposes of statewide data collection and
37 reporting.

38 (11) The obligation of the state to provide funding and the scheduling for providing funding of
39 a project approved under this section is dependent upon the ability of the state to access public
40 security markets to sell financing agreements.

41 (12) No later than January 1 of each odd-numbered year, the Department of Corrections shall:

42 (a) Evaluate the community corrections policy established in ORS 423.475, 423.478, 423.483 and
43 423.500 to 423.560; and

44 (b) Assess the effectiveness of local revocation options.

45 (13) As used in this section, "designated drug-related misdemeanor" and "designated person

1 misdemeanor” have the meanings given those terms in ORS 423.478.

2
3 (Conditional Discharge)

4
5 **SECTION 51.** Section 52 of this 2024 Act is added to and made a part of ORS 475.752 to
6 **475.980.**

7 **SECTION 52.** (1)(a) When a person is charged with unlawful possession of a controlled
8 substance under ORS 475.752 (3)(a), (b), (c) or (d), 475.814 (2)(a), 475.824 (2)(a), 475.834 (2)(a),
9 475.854 (2)(a), 475.874 (2)(a), 475.884 (2)(a) or 475.894 (2)(a) constituting a drug enforcement
10 misdemeanor as described in section 35 of this 2024 Act, the person is eligible to enter, and
11 subject to paragraphs (b) and (c) of this subsection may request to enter, into a probation
12 agreement as described in this section.

13 (b) The district attorney may object to the defendant’s entry into a probation agreement
14 under this section. After hearing the reasons for the objection, the court may deny the
15 person’s entry if the probation agreement would not serve the needs of the person or the
16 protection and welfare of the community.

17 (c) A person may request to enter into a probation agreement under this section no later
18 than 30 days after the person’s first appearance, unless the court authorizes a later date for
19 good cause shown. For purposes of this paragraph, the filing of a demurrer, a motion to
20 suppress or a motion for an omnibus hearing does not constitute good cause.

21 (d) When a person enters into a probation agreement under this section, the court shall
22 defer further proceedings on the charge described in paragraph (a) of this subsection and
23 place the person on probation. The terms of the probation shall be defined by a probation
24 agreement.

25 (e) A person may enter into a probation agreement under this section on the charge de-
26 scribed in paragraph (a) of this subsection regardless of whether the person is charged with
27 other offenses within the same charging instrument or as part of a separate charging in-
28 strument, but the proceedings on the other offenses continue in the normal course and are
29 not deferred.

30 (2)(a) A probation agreement described in this section carries the understanding that if
31 the defendant fulfills the terms of the agreement, the charge described in subsection (1)(a)
32 of this section that is the subject of the agreement will be dismissed with prejudice.

33 (b) The initial term of probation shall be 12 months, subject to early termination by the
34 court. The terms of the probation shall include the general conditions of probation described
35 in ORS 137.540 (1) and a requirement that the defendant complete a substance abuse evalu-
36 ation and any treatment recommended by the evaluator. The court may impose sanctions
37 of up to a total of 30 days of imprisonment upon finding that the person has violated the
38 conditions of probation. Structured, intermediate sanctions as described in ORS 137.593 may
39 be imposed in accordance with rules adopted under ORS 137.595 when the conditions of a
40 term of probation described in this section have been violated.

41 (c) The agreement must contain a waiver of the following rights of the defendant with
42 respect to each criminal charge:

43 (A) The right to a speedy trial and trial by jury;

44 (B) The right to present evidence on the defendant’s behalf;

45 (C) The right to confront and cross-examine witnesses against the defendant;

1 **(D) The right to contest evidence presented against the defendant, including the right to**
2 **object to hearsay evidence; and**

3 **(E) The right to appeal from a judgment of conviction resulting from an adjudication of**
4 **guilt entered under subsection (3) of this section, unless the appeal is based on an allegation**
5 **that the sentence exceeds the maximum allowed by law or constitutes cruel and unusual**
6 **punishment.**

7 **(d) The agreement may not contain a requirement that the defendant enter a plea of**
8 **guilty or no contest on any charge in the accusatory instrument.**

9 **(e) The fact that a person has entered into a probation agreement under this section does**
10 **not constitute an admission of guilt and is not sufficient to warrant a finding or adjudication**
11 **of guilt by a court.**

12 **(f) Police reports or other documents associated with the criminal charges in a court file**
13 **other than the probation agreement may not be admitted into evidence, and do not establish**
14 **a factual basis for finding the defendant guilty, unless the court resumes criminal pro-**
15 **ceedings and enters an adjudication of guilt under subsection (3) of this section.**

16 **(3) Upon violation of a term or condition of the probation agreement, the court may im-**
17 **pose a sanction or may resume the criminal proceedings and may find the defendant guilty**
18 **of the charge that is the subject of the agreement in accordance with the waiver of rights**
19 **in the agreement. The defendant may not contest the sufficiency of the evidence establishing**
20 **the defendant's guilt of the offenses in the accusatory instrument.**

21 **(4) Upon the conclusion or early termination of the probation period, if the court has**
22 **received notice from the district attorney or a supervising officer that the person has ful-**
23 **filled the terms and conditions of the probation agreement, the court shall discharge the**
24 **person and dismiss the charge that is the subject of the agreement. Discharge and dismissal**
25 **under this section shall be without adjudication of guilt and is not a conviction for purposes**
26 **of this section or for purposes of disqualifications or disabilities imposed by law upon con-**
27 **viction of a crime.**

28 **(5) In the event that the period of probation under this section expires, but the court has**
29 **not received notice that the terms and conditions of the probation agreement have been**
30 **fulfilled and no probation violation proceeding was initiated prior to the expiration of the**
31 **period of probation, the court may not discharge the person and dismiss the proceedings**
32 **against the person. The court shall instead issue an order requiring the person to appear and**
33 **to show cause why the court should not enter an adjudication of guilt as described in sub-**
34 **section (3) of this section due to the failure of the person to fulfill the terms and conditions**
35 **of the probation agreement prior to expiration of the period of probation. At the hearing on**
36 **the order to show cause, after considering any evidence or argument from the district at-**
37 **torney and the person, the court may:**

38 **(a) Order a new period of probation to allow the person to fulfill the terms and conditions**
39 **of the probation agreement; or**

40 **(b) Enter an adjudication of guilt as described in subsection (3) of this section.**

41 **SECTION 53.** ORS 475.245 is amended to read:

42 475.245. (1)(a) Whenever a person is charged with an offense listed in subsection (5) of this sec-
43 tion, the court, with the consent of the district attorney and the person, may defer further pro-
44 ceedings and place the person on probation. The terms of the probation shall be defined by a
45 probation agreement.

1 (b) A probation agreement carries the understanding that if the defendant fulfills the terms of
2 the agreement, the criminal charges filed against the defendant will be dismissed with prejudice.

3 (c) The agreement must contain a waiver of the following rights of the defendant with respect
4 to each criminal charge:

5 (A) The right to a speedy trial and trial by jury;

6 (B) The right to present evidence on the defendant's behalf;

7 (C) The right to confront and cross-examine witnesses against the defendant;

8 (D) The right to contest evidence presented against the defendant, including the right to object
9 to hearsay evidence; and

10 (E) The right to appeal from a judgment of conviction resulting from an adjudication of guilt
11 entered under subsection (2) of this section, unless the appeal is based on an allegation that the
12 sentence exceeds the maximum allowed by law or constitutes cruel and unusual punishment.

13 (d) The agreement must include a requirement that the defendant pay any restitution owed to
14 the victim as determined by the court, and any fees for court-appointed counsel ordered by the court
15 under ORS 135.050.

16 (e) The agreement may not contain a requirement that the defendant enter a plea of guilty or
17 no contest on any charge in the accusatory instrument.

18 (f) Entering into a probation agreement does not constitute an admission of guilt and is not
19 sufficient to warrant a finding or adjudication of guilt by a court.

20 (g) Police reports or other documents associated with the criminal charges in a court file other
21 than the probation agreement may not be admitted into evidence, and do not establish a factual
22 basis for finding the defendant guilty, unless the court resumes criminal proceedings and enters an
23 adjudication of guilt under subsection (2) of this section.

24 (2) Upon violation of a term or condition of the probation agreement, the court may **impose**
25 **sanctions of up to a total of 30 days of imprisonment, or** resume the criminal proceedings and
26 may find the defendant guilty of the offenses in the accusatory instrument in accordance with the
27 waiver of rights in the probation agreement. The defendant may not contest the sufficiency of the
28 evidence establishing the defendant's guilt of the offenses in the accusatory instrument.

29 (3) Upon fulfillment of the terms and conditions of the probation agreement, the court shall
30 discharge the person and dismiss the proceedings against the person. Discharge and dismissal under
31 this section shall be without adjudication of guilt and is not a conviction for purposes of this section
32 or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There
33 may be only one discharge and dismissal under this section with respect to any person.

34 (4) In the event that the period of probation under this section expires, but the terms and con-
35 ditions of the probation agreement have not been fulfilled and no probation violation proceeding was
36 initiated prior to the expiration of the period of probation, the court may not discharge the person
37 and dismiss the proceedings against the person. The court shall instead issue an order requiring the
38 person to appear and to show cause why the court should not enter an adjudication of guilt as de-
39 scribed in subsection (2) of this section due to the failure of the person to fulfill the terms and
40 conditions of the probation agreement prior to expiration of the period of probation. At the hearing
41 on the order to show cause, after considering any evidence or argument from the district attorney
42 and the person, the court may:

43 (a) Order a new period of probation to allow the person to fulfill the terms and conditions of the
44 probation agreement; or

45 (b) Enter an adjudication of guilt as described in subsection (2) of this section.

1 (5) This section applies to the following offenses:

2 (a) Possession of a controlled substance under ORS 475.752 (3), 475.814, 475.824, 475.834, 475.854,
3 475.874, 475.884 or 475.894;

4 (b) Unlawfully possessing a prescription drug under ORS 689.527 (6);

5 (c) Unlawfully possessing marijuana plants, usable marijuana, cannabinoid products, cannabinoid
6 concentrates or cannabinoid extracts as described in ORS 475C.337 or 475C.341, if the offense is a
7 misdemeanor or felony;

8 (d) Endangering the welfare of a minor under ORS 163.575 (1)(b);

9 (e) Frequenting a place where controlled substances are used under ORS 167.222; and

10 (f) A property offense that is motivated by a dependence on a controlled substance or a
11 marijuana item as defined in ORS 475C.009.

12
13 (Expungement)

14
15 **SECTION 54.** (1) Within 60 days of receiving verification from a deflection program co-
16 ordinator that a person has completed a deflection program, after being referred to the
17 program due to the alleged commission of unlawful possession of a controlled substance
18 constituting a drug enforcement misdemeanor as described in section 35 of this 2024 Act, a
19 law enforcement agency or district attorney shall seal all records related to the person's
20 participation in the program, the alleged conduct that resulted in the referral to the program
21 and, if applicable, the citation for the offense, and a court shall seal all electronic records
22 that may have been created concerning the offense. Records sealed under this subsection are
23 not subject to disclosure under ORS 192.311 to 192.478 or any other law.

24 (2) After two years have elapsed from the date that a person is cited for unlawful pos-
25 session of a controlled substance constituting a drug enforcement misdemeanor as described
26 in section 35 of this 2024 Act, and if no further prosecutorial action on the citation has oc-
27 curred, within 60 days after the conclusion of the two year time period, any law enforcement
28 agency or district attorney that possesses records related to the citation, and any court that
29 possesses electronic records related to the citation, shall seal the records. Records sealed
30 under this subsection are not subject to disclosure under ORS 192.311 to 192.478 or any other
31 law.

32 (3)(a) Notwithstanding ORS 137.225, when a person successfully completes a probation
33 agreement and the court discharges the person and dismisses the proceedings against the
34 person under section 52 (4) of this 2024 Act, the court shall, within 90 days after the dis-
35 missal, enter an order sealing all records related to the arrest or citation and the criminal
36 proceedings. The clerk of the court shall forward a copy of the order, or a certified copy if
37 requested, to such agencies as directed by the court.

38 (b) Notwithstanding ORS 137.225, when the court receives notice that a defendant has
39 successfully completed a term of probation for unlawful possession of a controlled substance
40 constituting a drug enforcement misdemeanor as described in section 35 of this 2024 Act, the
41 court shall, within 90 days after the notification, enter an order sealing all records related
42 to the arrest or citation and the criminal proceedings. The clerk of the court shall forward
43 a copy of the order, or a certified copy if requested, to such agencies as directed by the
44 court.

45 (4)(a) Notwithstanding ORS 137.225, after three years have passed from the date of entry

1 of judgment of conviction for unlawful possession of a controlled substance constituting a
2 drug enforcement misdemeanor as described in section 35 of this 2024 Act, the court shall,
3 within 60 days after the three year period has concluded, enter an order sealing all records
4 related to the arrest or citation, charges and conviction. The clerk of the court shall forward
5 a copy of the order, or a certified copy if requested, to such agencies as directed by the
6 court.

7 (b) Notwithstanding ORS 137.225, after three years have passed since the dismissal of a
8 unlawful possession of a controlled substance constituting a drug enforcement misdemeanor
9 as described in section 35 of this 2024 Act, if the court has not sealed records of the offense
10 under subsection (2) or (3) of this section, the court shall, within 60 days after the three year
11 period has concluded, enter an order sealing all records related to the arrest or citation and
12 any criminal proceedings. The clerk of the court shall forward a copy of the order, or a
13 certified copy if requested, to such agencies as directed by the court.

14 (5)(a) The State Court Administrator shall develop a standardized form for obtaining the
15 information necessary for all entities to seal records as required by subsections (3) and (4)
16 of this section.

17 (b) When a person enters into a probation agreement under section 52 of this 2024 Act,
18 or is convicted of unlawful possession of a controlled substance constituting a drug enforce-
19 ment misdemeanor as described in section 35 of this 2024 Act, the district attorney and the
20 defense attorney shall ensure that a copy of the form described in paragraph (a) of this
21 subsection is completed and submitted to the court.

22 **SECTION 55.** ORS 137.225 is amended to read:

23 137.225. (1)(a) At any time after the person becomes eligible as described in paragraph (b) of this
24 subsection, any person convicted of an offense who has fully complied with and performed the sen-
25 tence of the court for the offense, and whose conviction is described in subsection (5) of this section,
26 by motion may apply to the court where the conviction was entered for entry of an order setting
27 aside the conviction. A person who is still under supervision as part of the sentence for the offense
28 that is the subject of the motion has not fully complied with or performed the sentence of the court.

29 (b) A person is eligible to file a motion under paragraph (a) of this subsection:

30 (A) For a Class B felony, seven years from the date of conviction or the release of the person
31 from imprisonment for the conviction sought to be set aside, whichever is later.

32 (B) For a Class C felony, five years from the date of conviction or the release of the person from
33 imprisonment for the conviction sought to be set aside, whichever is later.

34 (C) For a Class A misdemeanor, three years from the date of conviction or the release of the
35 person from imprisonment for the conviction sought to be set aside, whichever is later.

36 (D) For a Class B or Class C misdemeanor, a violation or the finding of a person in contempt
37 of court, one year from the date of conviction or finding or the release of the person from
38 imprisonment for the conviction or finding sought to be set aside, whichever is later.

39 (c) If no accusatory instrument is filed, at any time after 60 days from the date the prosecuting
40 attorney indicates that the state has elected not to proceed with a prosecution or contempt pro-
41 ceeding, an arrested, cited or charged person may apply to the court in the county in which the
42 person was arrested, cited or charged, for entry of an order setting aside the record of the arrest,
43 citation or charge.

44 (d) At any time after an acquittal or a dismissal other than a dismissal described in paragraph
45 (c) of this subsection, an arrested, cited or charged person may apply to the court in the county in

1 which the person was arrested, cited or charged, for entry of an order setting aside the record of
2 the arrest, citation or charge.

3 (e) Notwithstanding paragraph (b) of this subsection, a person whose sentence of probation was
4 revoked may not apply to the court for entry of an order setting aside the conviction for which the
5 person was sentenced to probation for a period of three years from the date of revocation or until
6 the person becomes eligible as described in paragraph (b) of this subsection, whichever occurs later.

7 (f) A person filing a motion under this section is not required to pay the filing fee established
8 under ORS 21.135.

9 (2)(a) A copy of the motion shall be served upon the office of the prosecuting attorney who
10 prosecuted the offense, or who had authority to prosecute the charge if there was no accusatory
11 instrument filed. The prosecuting attorney may object to a motion filed under subsection (1)(a) of
12 this section and shall notify the court and the person of the objection within 120 days of the date
13 the motion was filed with the court.

14 (b) When a prosecuting attorney is served with a copy of a motion to set aside a conviction
15 under subsection (1)(a) of this section, the prosecuting attorney shall provide a copy of the motion
16 and notice of the hearing date to the victim, if any, of the offense by mailing a copy of the motion
17 and notice to the victim's last-known address.

18 (c) When a person makes a motion under this section, the person shall forward to the Depart-
19 ment of State Police a full set of the person's fingerprints on a fingerprint card or in any other
20 manner specified by the department.

21 (d) When a person makes a motion under subsection (1)(a) of this section, the person must pay
22 a fee to the Department of State Police for the purpose of the department performing a criminal
23 record check. The department shall establish a fee in an amount not to exceed the actual cost of
24 performing the criminal record check. If the department is required to perform only one criminal
25 record check for the person, the department may only charge one fee, regardless of the number of
26 counties in which the person is filing a motion to set aside a conviction, arrest, charge or citation
27 under this section. The department shall provide a copy of the results of the criminal record check
28 to the prosecuting attorney.

29 (e) The prosecuting attorney may not charge the person a fee for performing the requirements
30 described in this section.

31 (3)(a) If an objection is received to a motion filed under subsection (1)(a) of this section, the
32 court shall hold a hearing, and may require the filing of such affidavits and may require the taking
33 of such proofs as the court deems proper. The court shall allow the victim to make a statement at
34 the hearing. If the person is otherwise eligible for relief under this section, the court shall grant the
35 motion and enter an order as described in paragraph (b) of this subsection unless the court makes
36 written findings, by clear and convincing evidence, that the circumstances and behavior of the per-
37 son, from the date of the conviction the person is seeking to set aside to the date of the hearing on
38 the motion, do not warrant granting the motion due to the circumstances and behavior creating a
39 risk to public safety. When determining whether the person's circumstances and behavior create a
40 risk to public safety, the court may only consider criminal behavior, or violations of regulatory law
41 or administrative rule enforced by civil penalty or other administrative sanction that relate to the
42 character of the conviction sought to be set aside. The court may not consider nonpunitive civil
43 liability, monetary obligations and motor vehicle violations. Upon granting the motion, the court
44 shall enter an appropriate order containing the original arrest or citation charge, the conviction
45 charge, if different from the original, the date of charge, the submitting agency and the disposition

1 of the charge. Upon the entry of the order, the person for purposes of the law shall be deemed not
2 to have been previously convicted, and the court shall issue an order sealing the record of con-
3 viction and other official records in the case, including the records of arrest, citation or charge.

4 (b) The court shall grant a motion filed under subsection (1)(c) or (d) of this section, or under
5 subsection (1)(a) of this section if no objection to the motion is received, and shall enter an appro-
6 priate order containing the original arrest or citation charge, the conviction charge, if applicable
7 and different from the original, the date of charge, the submitting agency and the disposition of the
8 charge. Upon the entry of the order, the person for purposes of the law shall be deemed not to have
9 been previously convicted, arrested, cited or charged, and the court shall issue an order sealing all
10 official records in the case, including the records of arrest, citation or charge, whether or not the
11 arrest, citation or charge resulted in a further criminal proceeding.

12 (4) The clerk of the court shall forward a certified copy of the order to such agencies as directed
13 by the court. A certified copy must be sent to the Department of Corrections when the order con-
14 cerns a conviction. Upon entry of the order, the conviction, arrest, citation, charge or other pro-
15 ceeding shall be deemed not to have occurred, and the person may answer accordingly any questions
16 relating to its occurrence.

17 (5) The provisions of subsection (1)(a) of this section apply to a conviction for:

18 (a) A Class B felony, except for a violation of ORS 166.429 or any crime classified as a person
19 felony as defined in the rules of the Oregon Criminal Justice Commission.

20 (b) Any misdemeanor, Class C felony or felony punishable as a misdemeanor pursuant to ORS
21 161.705.

22 (c) An offense constituting a violation under state law or local ordinance.

23 (d) An offense committed before January 1, 1972, that, if committed after that date, would qualify
24 for an order under this section.

25 (e) The finding of a person in contempt of court.

26 (6) Notwithstanding subsection (5) of this section, the provisions of subsection (1)(a) of this sec-
27 tion do not apply to a conviction for:

28 (a) Criminal mistreatment in the second degree under ORS 163.200 if the victim at the time of
29 the crime was 65 years of age or older.

30 (b) Criminal mistreatment in the first degree under ORS 163.205 if the victim at the time of the
31 crime was 65 years of age or older, or when the offense constitutes child abuse as defined in ORS
32 419B.005.

33 (c) Endangering the welfare of a minor under ORS 163.575 (1)(a), when the offense constitutes
34 child abuse as defined in ORS 419B.005.

35 (d) Criminally negligent homicide under ORS 163.145, when that offense was punishable as a
36 Class C felony.

37 (e) Assault in the third degree under ORS 163.165 (1)(h).

38 (f) Any sex crime, unless:

39 (A) The sex crime is listed in ORS 163A.140 (1)(a) and:

40 (i) The person has been relieved of the obligation to report as a sex offender pursuant to a court
41 order entered under ORS 163A.145 or 163A.150; and

42 (ii) The person has not been convicted of, found guilty except for insanity of or found to be
43 within the jurisdiction of the juvenile court based on a crime for which the court is prohibited from
44 setting aside the conviction under this section; or

45 (B) The sex crime constitutes a Class C felony and:

- 1 (i) The person was under 16 years of age at the time of the offense;
- 2 (ii) The person is:
- 3 (I) Less than two years and 180 days older than the victim; or
- 4 (II) At least two years and 180 days older, but less than three years and 180 days older, than
- 5 the victim and the court finds that setting aside the conviction is in the interests of justice and of
- 6 benefit to the person and the community;
- 7 (iii) The victim's lack of consent was due solely to incapacity to consent by reason of being less
- 8 than a specified age;
- 9 (iv) The victim was at least 12 years of age at the time of the offense;
- 10 (v) The person has not been convicted of, found guilty except for insanity of or found to be
- 11 within the jurisdiction of the juvenile court based on a crime for which the court is prohibited from
- 12 setting aside the conviction under this section; and
- 13 (vi) Each conviction or finding described in this subparagraph involved the same victim.
- 14 (7) Notwithstanding subsection (5) of this section, the provisions of subsection (1) of this section
- 15 do not apply to:
- 16 (a) A conviction for a state or municipal traffic offense.
- 17 (b) A person convicted, within the following applicable time period immediately preceding the
- 18 filing of the motion pursuant to subsection (1) of this section, of any other offense, excluding motor
- 19 vehicle violations **and unlawful possession of a controlled substance constituting a drug**
- 20 **enforcement misdemeanor as described in section 35 of this 2024 Act**, whether or not the other
- 21 conviction is for conduct associated with the same criminal episode that caused the arrest, citation,
- 22 charge or conviction that is sought to be set aside:
- 23 (A) For a motion concerning a Class B felony, seven years.
- 24 (B) For a motion concerning a Class C felony, five years.
- 25 (C) For a motion concerning a Class A misdemeanor, three years.
- 26 (D) For a motion concerning a Class B or Class C misdemeanor a violation or a finding of con-
- 27 tempt of court, one year.
- 28 (c) A single violation, other than a motor vehicle violation, within the time period specified in
- 29 paragraph (b) of this subsection is not a conviction under this subsection. Notwithstanding sub-
- 30 section (1) of this section, a conviction that has been set aside under this section shall be considered
- 31 for the purpose of determining whether paragraph (b) of this subsection is applicable.
- 32 (d) A person who at the time the motion authorized by subsection (1) of this section is pending
- 33 before the court is under charge of commission of any crime.
- 34 (8) The provisions of subsection (1)(c) or (d) of this section do not apply to an arrest or citation
- 35 for driving while under the influence of intoxicants if the charge is dismissed as a result of the
- 36 person's successful completion of a diversion agreement described in ORS 813.200.
- 37 (9) The provisions of subsection (1) of this section apply to convictions, arrests, citations and
- 38 charges that occurred before, as well as those that occurred after, September 9, 1971. There is no
- 39 time limit for making an application.
- 40 (10) For purposes of any civil action in which truth is an element of a claim for relief or affir-
- 41 mative defense, the provisions of subsection (3) of this section providing that the conviction, arrest,
- 42 citation, charge or other proceeding be deemed not to have occurred do not apply and a party may
- 43 apply to the court for an order requiring disclosure of the official records in the case as may be
- 44 necessary in the interest of justice.
- 45 (11)(a) Upon motion of any prosecutor or defendant in a case involving records sealed under this

1 section, supported by affidavit showing good cause, the court with jurisdiction may order the reo-
2 pening and disclosure of any records sealed under this section for the limited purpose of assisting
3 the investigation of the movant. However, such an order has no other effect on the orders setting
4 aside the conviction or the arrest, citation or charge record.

5 (b) Notwithstanding paragraph (a) of this subsection, when an arrest, citation or charge de-
6 scribed in subsection (1)(c) of this section is set aside, a prosecuting attorney may, for the purpose
7 of initiating a criminal proceeding within the statute of limitations, unseal the records sealed under
8 this section by notifying the court with jurisdiction over the charge, record of arrest or citation.
9 The prosecuting attorney shall notify the person who is the subject of the records of the unsealing
10 under this paragraph by sending written notification to the person's last known address.

11 (12) The State Court Administrator shall create forms to be used throughout the state for
12 motions and proposed orders described in this section.

13 (13) As used in this section:

14 (a) "Affidavit" includes a declaration under penalty of perjury.

15 (b) "Sex crime" has the meaning given that term in ORS 163A.005.

16
17 **(Other Amendments Related to Expungement)**

18
19 **SECTION 56.** ORS 135.050 is amended to read:

20 135.050. (1) Suitable counsel for a defendant shall be appointed by a municipal, county or justice
21 court if:

22 (a) The defendant is before a court on a matter described in subsection (5) of this section;

23 (b) The defendant requests aid of counsel;

24 (c) The defendant provides to the court a written and verified financial statement; and

25 (d) It appears to the court that the defendant is financially unable to retain adequate represen-
26 tation without substantial hardship in providing basic economic necessities to the defendant or the
27 defendant's dependent family.

28 (2) Suitable counsel for a defendant shall be appointed by a circuit court if:

29 (a) The defendant is before the court on a matter described in subsection (5) of this section;

30 (b) The defendant requests aid of counsel;

31 (c) The defendant provides to the court a written and verified financial statement; and

32 (d)(A) The defendant is determined to be financially eligible under ORS 151.485 and the stan-
33 dards established by the Oregon Public Defense Commission under ORS 151.216; or

34 (B) The court finds, on the record, substantial and compelling reasons why the defendant is fi-
35 nancially unable to retain adequate representation without substantial hardship in providing basic
36 economic necessities to the defendant or the defendant's dependent family despite the fact that the
37 defendant does not meet the financial eligibility standards established by the commission.

38 (3) Appointed counsel may not be denied to any defendant merely because the defendant's
39 friends or relatives have resources adequate to retain counsel or because the defendant has depos-
40 ited or is capable of depositing security for release. However, appointed counsel may be denied to
41 a defendant if the defendant's spouse has adequate resources which the court determines should be
42 made available to retain counsel.

43 (4) The defendant's financial statement under subsection (1) or (2) of this section shall include,
44 but not be limited to:

45 (a) A list of bank accounts in the name of defendant or defendant's spouse, and the balance in

1 each;

2 (b) A list of defendant's interests in real property and those of defendant's spouse;

3 (c) A list of automobiles and other personal property of significant value belonging to defendant
4 or defendant's spouse;

5 (d) A list of debts in the name of defendant or defendant's spouse, and the total of each; and

6 (e) A record of earnings and other sources of income in the name of defendant or defendant's
7 spouse, and the total of each.

8 (5) Counsel must be appointed for a defendant who meets the requirements of subsection (1) or
9 (2) of this section and who is before a court on any of the following matters:

10 (a) Charged with a crime.

11 (b) For a hearing to determine whether an enhanced sentence should be imposed when such
12 proceedings may result in the imposition of a felony sentence.

13 (c) For extradition proceedings under the provisions of the Uniform Criminal Extradition Act.

14 (d) For any proceeding concerning an order of probation, including but not limited to the re-
15 voking or amending thereof.

16 (6) Unless otherwise ordered by the court, the appointment of counsel under this section shall
17 continue during all criminal proceedings resulting from the defendant's arrest through acquittal or
18 the imposition of punishment. The court having jurisdiction of the case may not substitute one ap-
19 pointed counsel for another except pursuant to the policies, procedures, standards and guidelines
20 of the Oregon Public Defense Commission under ORS 151.216.

21 (7) If, at any time after the appointment of counsel, the court having jurisdiction of the case
22 finds that the defendant is financially able to obtain counsel, the court may terminate the appoint-
23 ment of counsel. If, at any time during criminal proceedings, the court having jurisdiction of the
24 case finds that the defendant is financially unable to pay counsel whom the defendant has retained,
25 the court may appoint counsel as provided in this section.

26 (8)(a) **Except as provided in paragraph (b) of this subsection**, the court may order the de-
27 fendant in a circuit court to pay to the Public Defense Services Account established by ORS 151.225,
28 through the clerk of the court, in full or in part the administrative costs of determining the eligi-
29 bility of the defendant for appointed counsel and the costs of the legal and other services that are
30 related to the provision of appointed counsel under ORS 151.487.

31 **(b) A court may not enter an order described in paragraph (a) of this subsection when**
32 **the defendant is charged only with unlawful possession of a controlled substance constituting**
33 **a drug enforcement misdemeanor as described in section 35 of this 2024 Act.**

34 (9) In addition to any criminal prosecution, a civil proceeding may be initiated by any public
35 body which has expended moneys for the defendant's legal assistance within two years of judgment
36 if the defendant was not qualified in accordance with subsection (1) or (2) of this section for legal
37 assistance.

38 (10) The civil proceeding shall be subject to the exemptions from execution as provided for by
39 law.

40 (11) As used in this section unless the context requires otherwise, "counsel" includes a legal
41 advisor appointed under ORS 135.045.

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(Repealing Class E Violation Provisions)

SECTION 57. ORS 51.050 is amended to read:

1 51.050. (1) Except as otherwise provided in this section, in addition to the criminal jurisdiction
2 of justice courts already conferred upon and exercised by them, justice courts have jurisdiction of
3 all offenses committed or triable in their respective counties. The jurisdiction conveyed by this
4 section is concurrent with any jurisdiction that may be exercised by a circuit court or municipal
5 court.

6 (2) In any justice court that has not become a court of record under ORS 51.025, a defendant
7 charged with a misdemeanor shall be notified immediately after entering a plea of not guilty of the
8 right of the defendant to have the matter transferred to the circuit court for the county where the
9 justice court is located. The election shall be made within 10 days after the plea of not guilty is
10 entered, and the justice shall immediately transfer the case to the appropriate court.

11 (3) A justice court does not have jurisdiction over the trial of any felony or a designated drug-
12 related misdemeanor as defined in ORS 423.478. [*A justice court does not have jurisdiction over Class*
13 *E violations.*] Except as provided in ORS 51.037, a justice court does not have jurisdiction over of-
14 fenses created by the charter or ordinance of any city.

15 **SECTION 58.** ORS 137.300 is amended to read:

16 137.300. (1) The Criminal Fine Account is established in the General Fund. Except as otherwise
17 provided by law, all amounts collected in state courts as monetary obligations in criminal actions
18 shall be deposited by the courts in the account. All moneys in the account are continuously appro-
19 priated to the Department of Revenue to be distributed by the Department of Revenue as provided
20 in this section. The Department of Revenue shall keep a record of moneys transferred into and out
21 of the account.

22 (2) The Legislative Assembly shall first allocate moneys from the Criminal Fine Account for the
23 following purposes, in the following order of priority:

24 (a) Allocations for public safety standards, training and facilities.

25 (b) Allocations for criminal injuries compensation and assistance to victims of crime and chil-
26 dren reasonably suspected of being victims of crime.

27 (c) Allocations for the forensic services provided by the Oregon State Police, including, but not
28 limited to, services of the Chief Medical Examiner.

29 (d) Allocations for the maintenance and operation of the Law Enforcement Data System.

30 (3) After making allocations under subsection (2) of this section, the Legislative Assembly shall
31 allocate moneys from the Criminal Fine Account for the following purposes:

32 (a) Allocations to the Law Enforcement Medical Liability Account established under ORS
33 414.815.

34 (b) Allocations to the State Court Facilities and Security Account established under ORS 1.178.

35 (c) Allocations to the Department of Corrections for the purpose of planning, operating and
36 maintaining county juvenile and adult corrections programs and facilities and drug and alcohol
37 programs.

38 (d) Allocations to the Oregon Health Authority for the purpose of grants under ORS 430.345 for
39 the establishment, operation and maintenance of alcohol and drug abuse prevention, early inter-
40 vention and treatment services provided through a county.

41 (e) Allocations to the Oregon State Police for the purpose of the enforcement of the laws relat-
42 ing to driving under the influence of intoxicants.

43 (f) Allocations to the Arrest and Return Account established under ORS 133.865.

44 (g) Allocations to the Intoxicated Driver Program Fund established under ORS 813.270.

45 (h) Allocations to the State Court Technology Fund established under ORS 1.012.

1 [(4) Notwithstanding subsections (2) and (3) of this section, the Legislative Assembly shall allocate
2 all moneys deposited into the Criminal Fine Account as payment of fines on Class E violations to the
3 Drug Treatment and Recovery Services Fund established under ORS 430.384.]

4 [(5)] (4) It is the intent of the Legislative Assembly that allocations from the Criminal Fine
5 Account under subsection (3) of this section be consistent with historical funding of the entities,
6 programs and accounts listed in subsection (3) of this section from monetary obligations imposed in
7 criminal proceedings. Amounts that are allocated under subsection (3)(c) of this section shall be
8 distributed to counties based on the amounts that were transferred to counties by circuit courts
9 during the 2009-2011 biennium under the provisions of ORS 137.308, as in effect January 1, 2011.

10 [(6)] (5) Moneys in the Criminal Fine Account may not be allocated for the payment of debt
11 service obligations.

12 [(7)] (6) The Department of Revenue shall deposit in the General Fund all moneys remaining in
13 the Criminal Fine Account after the distributions listed in subsections (2)[,] **and** (3) [*and* (4)] of this
14 section have been made.

15 [(8)] (7) The Department of Revenue shall establish by rule a process for distributing moneys in
16 the Criminal Fine Account. The department may not distribute more than one-eighth of the total
17 biennial allocation to an entity during a calendar quarter.

18 **SECTION 59.** ORS 153.012 is amended to read:

19 153.012. Violations are classified for the purpose of sentencing into the following categories:

20 (1) Class A violations.

21 (2) Class B violations.

22 (3) Class C violations.

23 (4) Class D violations.

24 [(5) *Class E violations.*]

25 [(6)] (5) Unclassified violations as described in ORS 153.015.

26 [(7)] (6) Specific fine violations as described in ORS 153.015.

27 **SECTION 60.** ORS 153.018 is amended to read:

28 153.018. (1) The penalty for committing a violation is a fine. The law creating a violation may
29 impose other penalties in addition to a fine but may not impose a term of imprisonment.

30 (2) Except as otherwise provided by law, the maximum fine for a violation committed by an in-
31 dividual is:

32 (a) \$2,000 for a Class A violation.

33 (b) \$1,000 for a Class B violation.

34 (c) \$500 for a Class C violation.

35 (d) \$250 for a Class D violation.

36 [(e) *\$100 for a Class E violation.*]

37 [(f)] (e) \$2,000 for a specific fine violation, or the maximum amount otherwise established by law
38 for the specific fine violation.

39 (3) If a special corporate fine is specified in the law creating the violation, the sentence to pay
40 a fine shall be governed by the law creating the violation. Except as otherwise provided by law, if
41 a special corporate fine is not specified in the law creating the violation, the maximum fine for a
42 violation committed by a corporation is:

43 (a) \$4,000 for a Class A violation.

44 (b) \$2,000 for a Class B violation.

45 (c) \$1,000 for a Class C violation.

1 (d) \$500 for a Class D violation.

2 **SECTION 61.** ORS 153.019 is amended to read:

3 153.019. (1) Except as provided in ORS 153.020, [153.062 and 430.391,] the presumptive fines for
4 violations are:

5 (a) \$440 for a Class A violation.

6 (b) \$265 for a Class B violation.

7 (c) \$165 for a Class C violation.

8 (d) \$115 for a Class D violation.

9 [(e) \$100 for a Class E violation.]

10 (2) The presumptive fine for a specific fine violation is:

11 (a) The amount specified by statute as the presumptive fine for the violation; or

12 (b) An amount equal to the greater of 20 percent of the maximum fine prescribed for the vio-
13 lation, or the minimum fine prescribed by statute for the violation.

14 (3) Any surcharge imposed under ORS 1.188 shall be added to and made a part of the
15 presumptive fine.

16 **SECTION 62.** ORS 153.021 is amended to read:

17 153.021. (1) Unless a specific minimum fine is prescribed for a violation, and except as otherwise
18 provided by law, the minimum fine a court shall impose for a violation that is subject to the
19 presumptive fines established by ORS 153.019 (1) or 153.020 are as follows:

20 (a) \$225 for a Class A violation.

21 (b) \$135 for a Class B violation.

22 (c) \$85 for a Class C violation.

23 (d) \$65 for a Class D violation.

24 [(e) \$45 for a Class E violation.]

25 (2) Notwithstanding subsection (1) of this section, a court may waive payment of the minimum
26 fine described in this section, in whole or in part, if the court determines that requiring payment
27 of the minimum fine would be inconsistent with justice in the case. In making its determination
28 under this subsection, the court shall consider:

29 (a) The financial resources of the defendant and the burden that payment of the minimum fine
30 would impose, with due regard to the other obligations of the defendant; and

31 (b) The extent to which that burden could be alleviated by allowing the defendant to pay the
32 fine in installments or subject to other conditions set by the court.

33 (3) This section does not affect the manner in which a court imposes or reduces monetary obli-
34 gations other than fines.

35 (4) The Department of Revenue or Secretary of State may audit any court to determine whether
36 the court is complying with the requirements of this section. In addition, the Department of Revenue
37 or Secretary of State may audit any court to determine whether the court is complying with the
38 requirements of ORS 137.145 to 137.159 and 153.640 to 153.680. The Department of Revenue or Sec-
39 retary of State may file an action under ORS 34.105 to 34.240 to enforce the requirements of this
40 section and of ORS 137.145 to 137.159 and 153.640 to 153.680.

41 **SECTION 63.** ORS 153.064 is amended to read:

42 153.064. (1) Except as provided in subsection (2) of this section, a warrant for arrest may be is-
43 sued against a person who fails to make a first appearance on a citation for a violation, or fails to
44 appear at any other subsequent time set for trial or other appearance, only if the person is charged
45 with failure to appear in a violation proceeding under ORS 153.992.

1 (2) If a person fails to make a first appearance on a citation for a violation [*other than a Class*
 2 *E violation*], or fails to appear at any other subsequent time set for trial or other appearance on a
 3 violation [*other than a Class E violation*], the court may issue an order that requires the defendant
 4 to appear and show cause why the defendant should not be held in contempt. The show cause order
 5 may be mailed to the defendant by certified mail, return receipt requested. If service cannot be ac-
 6 complished by mail, the defendant must be personally served. If the defendant is served and fails to
 7 appear at the time specified in the show cause order, the court may issue an arrest warrant for the
 8 defendant for the purpose of bringing the defendant before the court.

9 **SECTION 64.** ORS 153.992 is amended to read:

10 153.992. (1) A person commits the offense of failure to appear in a violation proceeding if the
 11 person has been served with a citation issued under this chapter for a violation [*other than a Class*
 12 *E violation*] and the person knowingly fails to do any of the following:

- 13 (a) Make a first appearance in the manner required by ORS 153.061 within the time allowed.
- 14 (b) Make appearance at the time set for trial in the violation proceeding.
- 15 (c) Appear at any other time required by the court or by law.

16 (2) Failure to appear on a violation citation is a Class A misdemeanor.

17 **SECTION 65.** ORS 221.339 is amended to read:

18 221.339. (1) A municipal court has concurrent jurisdiction with circuit courts and justice courts
 19 over all violations committed or triable in the city where the court is located.

20 (2) Except as provided in subsections (3) and (4) of this section, municipal courts have concu-
 21 rrent jurisdiction with circuit courts and justice courts over misdemeanors committed or triable in
 22 the city. Municipal courts may exercise the jurisdiction conveyed by this section without a charter
 23 provision or ordinance authorizing that exercise.

24 (3) Municipal courts have no jurisdiction over felonies[,] **or** designated drug-related
 25 misdemeanors as defined in ORS 423.478 [*or Class E violations*].

26 (4) A city may limit the exercise of jurisdiction over misdemeanors by a municipal court under
 27 this section by the adoption of a charter provision or ordinance, except that municipal courts must
 28 retain concurrent jurisdiction with circuit courts over:

- 29 (a) Misdemeanors created by the city's own charter or by ordinances adopted by the city, as
 30 provided in ORS 3.132; and
- 31 (b) Traffic crimes as defined by ORS 801.545.

32 (5) Subject to the powers and duties of the Attorney General under ORS 180.060, the city at-
 33 torney has authority to prosecute a violation of any offense created by statute that is subject to the
 34 jurisdiction of a municipal court, including any appeal, if the offense is committed or triable in the
 35 city. The prosecution shall be in the name of the state. The city attorney shall have all powers of
 36 a district attorney in prosecutions under this subsection.

37 **SECTION 65a.** ORS 316.502 is amended to read:

38 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and
 39 amounts described in ORS 285B.630[,] **and** 285C.635 [*and 305.231*], shall be paid over to the State
 40 Treasurer and held in the General Fund as miscellaneous receipts available generally to meet any
 41 expense or obligation of the State of Oregon lawfully incurred.

42 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-
 43 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year
 44 exceed the sum of \$1 million.

45 (3) Moneys are continuously appropriated to the Department of Revenue to make:

1 (a) The refunds authorized under subsection (2) of this section; and

2 (b) The refund payments in excess of tax liability authorized under ORS 315.133, 315.174, 315.262,
3 315.264, 315.266, 315.273, 315.519 and 316.090 and section 3, chapter 589, Oregon Laws 2021.

4 **SECTION 66.** ORS 419C.370 is amended to read:

5 419C.370. (1) The juvenile court may enter an order directing that all cases involving:

6 (a) Violation of a law or ordinance relating to the use or operation of a motor vehicle, boating
7 laws or game laws be waived to criminal or municipal court;

8 (b) An offense classified as a violation [*other than a Class E violation*] under the laws of this
9 state or a political subdivision of this state be waived to municipal court if the municipal court has
10 agreed to accept jurisdiction; and

11 (c) A misdemeanor that entails theft, destruction, tampering with or vandalism of property be
12 waived to municipal court if the municipal court has agreed to accept jurisdiction.

13 (2) Cases waived under subsection (1) of this section are subject to the following:

14 (a) That the criminal or municipal court prior to hearing a case, other than a case involving a
15 parking violation, in which the defendant is or appears to be under 18 years of age notify the juve-
16 nile court of that fact; and

17 (b) That the juvenile court may direct that any such case be waived to the juvenile court for
18 further proceedings.

19 (3)(a) When a person who has been waived under subsection (1)(c) of this section is convicted
20 of a property offense, the municipal court may impose any sanction authorized for the offense except
21 for incarceration. The municipal court shall notify the juvenile court of the disposition of the case.

22 (b) When a person has been waived under subsection (1) of this section and fails to appear as
23 summoned or is placed on probation and is alleged to have violated a condition of the probation, the
24 juvenile court may recall the case to the juvenile court for further proceedings. When a person has
25 been returned to juvenile court under this paragraph, the juvenile court may proceed as though the
26 person had failed to appear as summoned to the juvenile court or had violated a juvenile court
27 probation order under ORS 419C.446.

28 (4) Records of cases waived under subsection (1)(c) of this section are juvenile records for pur-
29 poses of expunction under ORS 419A.260 to 419A.271.

30 **SECTION 67.** ORS 430.384 is amended to read:

31 430.384. (1) The Drug Treatment and Recovery Services Fund is established in the State Treas-
32 ury, separate and distinct from the General Fund. Interest earned by the Drug Treatment and Re-
33 covery Services Fund shall be credited to the fund.

34 (2) The Drug Treatment and Recovery Services Fund shall consist of:

35 [(a) Moneys deposited into the fund pursuant to ORS 305.231;]

36 [(b)] (a) Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;

37 [(c)] (b) Moneys allocated from the Oregon Marijuana Account, pursuant to ORS 475C.726 (3)(b);

38 **and**

39 [(d) Moneys allocated from the Criminal Fine Account pursuant to ORS 137.300 (4); and]

40 [(e)] (c) All other moneys deposited into the fund from any source.

41 (3) Moneys in the fund shall be continuously appropriated to the Oregon Health Authority for
42 the purposes set forth in ORS 430.389.

43 (4)(a) Pursuant to subsection [(2)(b)] (2)(a) of this section, the Legislative Assembly shall ap-
44 propriate or transfer to the fund an amount sufficient to fully fund the grants program required by
45 ORS 430.389.

1 (b) The total amount deposited and transferred into the fund shall not be less than \$57 million
2 for the first year ORS 430.383 to 430.390 and 430.394 are in effect.

3 (c) In each subsequent year, the minimum transfer amount set forth in paragraph (b) of this
4 subsection shall be increased by not less than the sum of:

5 (A) \$57 million multiplied by the percentage, if any, by which the monthly averaged U.S. City
6 Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar
7 year exceeds the monthly index for the fourth quarter of the calendar year 2020; and

8 (B) The annual increase, if any, in moneys distributed pursuant to ORS 475C.726 (3)(b).

9 **SECTION 68.** ORS 430.389 is amended to read:

10 430.389. (1) The Oversight and Accountability Council shall approve grants and funding provided
11 by the Oregon Health Authority in accordance with this section to implement Behavioral Health
12 Resource Networks and increase access to community care. A Behavioral Health Resource Network
13 is an entity or collection of entities that individually or jointly provide some or all of the services
14 described in subsection (2)(e) of this section.

15 (2)(a) The authority shall establish an equitable:

16 (A) Process for applying for grants and funding by agencies or organizations, whether govern-
17 ment or community based, to establish Behavioral Health Resource Networks for the purposes of
18 immediately screening the acute needs of individuals with substance use, including those who also
19 have a mental illness, and assessing and addressing any ongoing needs through ongoing case man-
20 agement, harm reduction, treatment, housing and linkage to other care and services.

21 (B) Evaluation process to assess the effectiveness of Behavioral Health Resource Networks that
22 receive grants or funding.

23 (b) Recipients of grants or funding must be licensed, certified or credentialed by the state, in-
24 cluding certification under ORS 743A.168 (9), or meet criteria prescribed by rule by the authority
25 under ORS 430.390. A recipient of a grant or funding under this subsection may not use the grant
26 or funding to supplant the recipient's existing funding.

27 (c) The council and the authority shall ensure that residents of each county have access to all
28 of the services described in paragraph (e) of this subsection.

29 (d) Applicants for grants and funding may apply individually or jointly with other network par-
30 ticipants to provide services in one or more counties.

31 (e) A network must have the capacity to provide the following services and any other services
32 specified by the authority by rule but no individual participant in a network is required to provide
33 all of the services:

34 (A) Screening by certified addiction peer support or wellness specialists or other qualified per-
35 sons designated by the council to determine a client's need for immediate medical or other treatment
36 to determine what acute care is needed and where it can be best provided, identify other needs and
37 link the client to other appropriate local or statewide services, including treatment for substance
38 use and coexisting health problems, housing, employment, training and child care. Networks shall
39 provide this service 24 hours a day, seven days a week, every calendar day of the year through a
40 telephone line or other means. Networks may rely on the statewide telephone hotline established
41 by the authority under ORS 430.391 for telephone screenings during nonbusiness hours such as
42 evenings, weekends and holidays. Notwithstanding paragraph (c) of this subsection, only one
43 grantee in each network within each county is required to provide the screenings described in this
44 subparagraph.

45 (B) Comprehensive behavioral health needs assessment, including a substance use screening by

1 a certified alcohol and drug counselor or other credentialed addiction treatment professional. The
2 assessment shall prioritize the self-identified needs of a client.

3 (C) Individual intervention planning, case management and connection to services. If, after the
4 completion of a screening, a client indicates a desire to address some or all of the identified needs,
5 a case manager shall work with the client to design an individual intervention plan. The plan must
6 address the client's need for substance use treatment, coexisting health problems, housing, employ-
7 ment and training, child care and other services.

8 (D) Ongoing peer counseling and support from screening and assessment through implementation
9 of individual intervention plans as well as peer outreach workers to engage directly with
10 marginalized community members who could potentially benefit from the network's services.

11 (E) Assessment of the need for, and provision of, mobile or virtual outreach services to:

12 (i) Reach clients who are unable to access the network; and

13 (ii) Increase public awareness of network services.

14 (F) Harm reduction services and information and education about harm reduction services.

15 (G) Low-barrier substance use treatment.

16 (H) Transitional and supportive housing for individuals with substance use.

17 (f) If an applicant for a grant or funding under this subsection is unable to provide all of the
18 services described in paragraph (e) of this subsection, the applicant may identify how the applicant
19 intends to partner with other entities to provide the services, and the authority and the council may
20 facilitate collaboration among applicants.

21 (g) All services provided through the networks must be evidence-informed, trauma-informed,
22 culturally specific, linguistically responsive, person-centered and nonjudgmental. The goal shall be
23 to address effectively the client's substance use and any other social determinants of health.

24 (h) The networks must be adequately staffed to address the needs of people with substance use
25 within their regions as prescribed by the authority by rule, including, at a minimum, at least one
26 person in each of the following categories:

27 (A) Alcohol and drug counselor certified by the authority or other credentialed addiction treat-
28 ment professional;

29 (B) Case manager;

30 (C) Addiction peer support specialist certified by the authority;

31 (D) Addiction peer wellness specialist certified by the authority;

32 (E) Recovery mentor, certified by the Mental Health and Addiction Certification Board of
33 Oregon or its successor organization; and

34 (F) Youth support specialist certified by the authority.

35 (i) Verification of a screening by a certified addiction peer support specialist, wellness specialist
36 or other person in accordance with paragraph (e)(A) of this subsection shall promptly be provided
37 to the client by the entity conducting the screening. If the client executes a valid release of infor-
38 mation, the entity shall provide verification of the screening to the authority or a contractor of the
39 authority and the authority or the authority's contractor shall forward the verification to *[the court,*
40 *in the manner prescribed by the Chief Justice of the Supreme Court, to satisfy the conditions for dis-*
41 *missal under ORS 153.062 or 475.237]* **any entity the client has authorized to receive the ver-**
42 **ification.**

43 (3)(a) If moneys remain in the Drug Treatment and Recovery Services Fund after the council
44 has committed grants and funding to establish behavioral health resource networks serving every
45 county in this state, the council shall authorize grants and funding to other agencies or organiza-

1 tions, whether government or community based, and to the nine federally recognized tribes in this
2 state and service providers that are affiliated with the nine federally recognized tribes in this state
3 to increase access to one or more of the following:

4 (A) Low-barrier substance use treatment that is evidence-informed, trauma-informed, culturally
5 specific, linguistically responsive, person-centered and nonjudgmental;

6 (B) Peer support and recovery services;

7 (C) Transitional, supportive and permanent housing for persons with substance use;

8 (D) Harm reduction interventions including, but not limited to, overdose prevention education,
9 access to short-acting opioid antagonists, as defined in ORS 689.800, and sterile syringes and
10 stimulant-specific drug education and outreach; or

11 (E) Incentives and supports to expand the behavioral health workforce to support the services
12 delivered by behavioral health resource networks and entities receiving grants or funding under this
13 subsection.

14 (b) A recipient of a grant or funding under this subsection may not use the grant or funding to
15 supplant the recipient's existing funding.

16 (4) In awarding grants and funding under subsections (1) and (3) of this section, the council
17 shall:

18 (a) Distribute grants and funding to ensure access to:

19 (A) Historically underserved populations; and

20 (B) Culturally specific and linguistically responsive services.

21 (b) Consider any inventories or surveys of currently available behavioral health services.

22 (c) Consider available regional data related to the substance use treatment needs and the access
23 to culturally specific and linguistically responsive services in communities in this state.

24 (d) Consider the needs of residents of this state for services, supports and treatment at all ages.

25 (5) The council shall require any government entity that applies for a grant to specify in the
26 application details regarding subgrantees and how the government entity will fund culturally spe-
27 cific organizations and culturally specific services. A government entity receiving a grant must
28 make an explicit commitment not to supplant or decrease any existing funding used to provide ser-
29 vices funded by the grant.

30 (6) In determining grants and funding to be awarded, the council may consult the comprehensive
31 addiction, prevention, treatment and recovery plan established by the Alcohol and Drug Policy
32 Commission under ORS 430.223 and the advice of any other group, agency, organization or individual
33 that desires to provide advice to the council that is consistent with the terms of this section.

34 (7) Services provided by grantees, including services provided by a Behavioral Health Resource
35 Network, shall be free of charge to the clients receiving the services. Grantees in each network
36 shall seek reimbursement from insurance issuers, the medical assistance program or any other third
37 party responsible for the cost of services provided to a client and grants and funding provided by
38 the council or the authority under this section may be used for copayments, deductibles or other
39 out-of-pocket costs incurred by the client for the services.

40 (8) Subsection (7) of this section does not require the medical assistance program to reimburse
41 the cost of services for which another third party is responsible in violation of 42 U.S.C. 1396a(25).

42 **SECTION 69.** ORS 430.392 is amended to read:

43 430.392. (1) The Division of Audits of the office of the Secretary of State shall conduct per-
44 formance audits and financial reviews as provided in this section, regarding the uses of the Drug
45 Treatment and Recovery Services Fund and the effectiveness of the fund in achieving the purposes

1 of the fund and the policy objectives of ORS 430.383. Recipients of grants or funds under ORS
2 430.389 shall keep accurate books, records and accounts that are subject to inspection and audit by
3 the division.

4 (2) The division shall monitor and report on the progress in implementing any recommendations
5 made in the audit or financial review. The division shall follow up on recommendations as part of
6 recurring audit work or as an activity separate from other audit activity. When following up on
7 recommendations, the division may request from the appropriate agency evidence of implementation.

8 (3) The audits set forth in this section shall be conducted pursuant to the provisions of ORS
9 chapter 297, except to the extent any provision of ORS chapter 297 conflicts with any provision of
10 ORS [293.665 and 305.231 and] 430.383 to 430.390 and 430.394, in which case the provisions of ORS
11 [293.665 and 305.231 and] 430.383 to 430.390 and 430.394 shall control.

12 (4) No later than December 31, 2023, the division shall perform a:

13 (a) Real-time audit, as prescribed by the division, which shall include an assessment of the re-
14 lationship between the Oversight and Accountability Council and the Oregon Health Authority, the
15 relationship between the council and recipients of grants or funding and the structural integrity of
16 ORS [293.665 and 305.231 and] 430.383 to 430.390 and 430.394, including but not limited to assessing:

17 (A) Whether the organizational structure of the council contains conflicts or problems.

18 (B) Whether the rules adopted by the council are clear and functioning properly.

19 (C) Whether the council has sufficient authority and independence to achieve the council's
20 mission.

21 (D) Whether the authority is fulfilling the authority's duties under ORS 430.384, 430.387, 430.390
22 and 430.391.

23 (E) Whether there are conflicts of interest in the process of awarding grants or funding.

24 (F) Whether there are opportunities to expand collaboration between the council and state
25 agencies.

26 (G) Whether barriers exist in data collection and evaluation mechanisms.

27 (H) Who is providing the data.

28 (I) Other areas identified by the division.

29 (b) Financial review, which shall include an assessment of the following:

30 (A) Whether grants and funding are going to organizations that are culturally responsive and
31 linguistically specific, including an assessment of:

32 (i) The barriers that exist for grant and funding applicants who are Black, Indigenous or People
33 of Color.

34 (ii) The applicants that were denied and why.

35 (iii) Whether grants and other funding are being disbursed based on the priorities specified in
36 ORS 430.389.

37 (iv) For government entities receiving grants or funding under ORS 430.389, the government
38 entities' subgrantees and whether the governmental entity supplanted or decreased any local funding
39 dedicated to the same services after receiving grants or funds under ORS 430.389.

40 (v) What proportion of grants or funds received by grantees and others under ORS 430.389, was
41 devoted to administrative costs.

42 (B) The organizations and agencies receiving grants or funding under ORS 430.389 and:

43 (i) Which of the organizations and agencies are Behavioral Health Resource Network entities.

44 (ii) The amount each organization and agency received.

45 (iii) The total number of organizations and agencies that applied for grants or funding.

1 (iv) The amount of moneys from the fund that were used to administer the programs selected
2 by the council.

3 (v) The moneys that remained in the Drug Treatment and Recovery Services Fund after grants
4 and funding were disbursed.

5 (5) No later than December 31, 2025, the division shall conduct a performance audit, which must
6 include an assessment of the following:

7 (a) All relevant data regarding the implementation of ORS [153.062 and] 430.391, including de-
8 mographic information on individuals who receive citations [subject to ORS 153.062 and 430.391] **for**
9 **a drug enforcement misdemeanor described in section 35 of this 2024 Act** and whether the ci-
10 tations resulted in connecting the individuals with treatment.

11 (b) The functioning of:

12 (A) Law enforcement and the courts in relation to [Class E violation citations] **drug enforce-**
13 **ment misdemeanors described in section 35 of this 2024 Act;**

14 (B) The telephone hotline operated by the authority;

15 (C) Entities providing verification of screenings under ORS 430.389; and

16 (D) The grants and funding systems between the council, the authority and recipients of grants
17 or funding, including by gathering information about which entities are receiving grants or funding
18 and what the grants or funding are used for, the process of applying for grants or funding and
19 whether the process is conducive to obtaining qualified applicants for grants or funding who are
20 from communities of color.

21 (c) Disparities shown by demographic data and whether the citation data reveals a dispropor-
22 tionate use of citations in communities most impacted by the war on drugs.

23 (d) Whether ORS [153.062,] 430.389 and 430.391 reduce the involvement in the criminal justice
24 system of individuals with substance use.

25 (e) Training opportunities provided to law enforcement officials regarding services that are
26 available and how to connect individuals to the services.

27 (f) The efficacy of issuing citations as a method of connecting individuals to services.

28 (g) The role of the implementation of ORS 430.383 to 430.390 and 430.394 in reducing overdose
29 rates.

30 (h) Outcomes for individuals receiving treatment and other social services under ORS 430.389,
31 including, but not limited to, the following:

32 (A) Whether access to care increased since December 3, 2020, and, if data is available, whether,
33 since December 3, 2020:

34 (i) The number of drug and alcohol treatment service providers increased.

35 (ii) The number of culturally specific providers increased.

36 (iii) Access to harm reduction services has increased.

37 (iv) More individuals are accessing treatment than they were before December 3, 2020.

38 (v) Access to housing for individuals with substance use has increased.

39 (B) Data on Behavioral Health Resource Networks and recipients of grants and funding under
40 ORS 430.389, including:

41 (i) The outcomes of each network or recipient, including but not limited to the number of clients
42 with substance use receiving services from each network or recipient, the average duration of client
43 participation and client outcomes.

44 (ii) The number of individuals seeking assistance from the network or recipients who are denied
45 or not connected to substance use treatment and other services, and the reasons for the denials.

1 (iii) The average time it takes for clients to access services and fulfill their individual inter-
2 vention plan and the reason for any delays, such as waiting lists at referred services.

3 (iv) Whether average times to access services to which clients are referred, such as housing or
4 medically assisted treatment, have decreased over time since December 3, 2020.

5 (v) Demographic data on clients served by Behavioral Health Resource Networks, including
6 self-reported demographic data on race, ethnicity, gender and age.

7 (i) Each recipient of a grant or funding.

8 (j) Other areas identified by the division for ascertaining best practices for overdose prevention.

9 (6) The division shall conduct periodic performance audits and financial reviews pursuant to the
10 division's annual audit plan and taking into consideration the risks of the program.

11 **SECTION 69a.** ORS 430.392, as amended by section 11, chapter 248, Oregon Laws 2023, is
12 amended to read:

13 430.392. (1) The Division of Audits of the office of the Secretary of State shall conduct per-
14 formance audits and financial reviews as provided in this section, regarding the uses of the Drug
15 Treatment and Recovery Services Fund and the effectiveness of the fund in achieving the purposes
16 of the fund and the policy objectives of ORS 430.383. Recipients of grants or funds under ORS
17 430.389 shall keep accurate books, records and accounts that are subject to inspection and audit by
18 the division.

19 (2) The division shall monitor and report on the progress in implementing any recommendations
20 made in the audit or financial review. The division shall follow up on recommendations as part of
21 recurring audit work or as an activity separate from other audit activity. When following up on
22 recommendations, the division may request from the appropriate agency evidence of implementation.

23 (3) The audits set forth in this section shall be conducted pursuant to the provisions of ORS
24 chapter 297, except to the extent any provision of ORS chapter 297 conflicts with any provision of
25 ORS [293.665 and 305.231 and] 430.383 to 430.390 and 430.394, in which case the provisions of ORS
26 [293.665 and 305.231 and] 430.383 to 430.390 and 430.394 shall control.

27 (4) The division shall conduct periodic performance audits and financial reviews pursuant to the
28 division's annual audit plan and taking into consideration the risks of the program.

29 **SECTION 70.** ORS 475.235 is amended to read:

30 475.235. (1) It is not necessary for the state to negate any exemption or exception in ORS
31 475.005 to 475.285 and 475.752 to 475.980 in any complaint, information, indictment or other pleading
32 or in any trial, hearing or other proceeding under ORS 475.005 to 475.285 and 475.752 to 475.980.
33 The burden of proof of any exemption or exception is upon the person claiming it.

34 (2) In the absence of proof that a person is the duly authorized holder of an appropriate regis-
35 tration or order form issued under ORS 475.005 to 475.285 and 475.752 to 475.980, the person is
36 presumed not to be the holder of the registration or form. The burden of proof is upon the person
37 to rebut the presumption.

38 (3)(a) When a controlled substance is at issue in a criminal proceeding before a grand jury, at
39 a preliminary hearing, in a proceeding on a district attorney's information[, *during a proceeding on*
40 *a Class E violation*] or for purposes of an early disposition program, it is prima facie evidence of the
41 identity of the controlled substance if:

42 (A) A sample of the controlled substance is tested using a presumptive test for controlled sub-
43 stances;

44 (B) The test is conducted by a law enforcement officer trained to use the test or by a forensic
45 scientist; and

1 (C) The test is positive for the particular controlled substance.

2 (b) When the identity of a controlled substance is established using a presumptive test for pur-
3 poses of a criminal proceeding before a grand jury, a preliminary hearing, a proceeding on a district
4 attorney's information or an early disposition program, the defendant, upon notice to the district
5 attorney, may request that the controlled substance be sent to a state police forensic laboratory for
6 analysis. *[The defendant may not make a request under this paragraph concerning a controlled sub-*
7 *stance at issue in a proceeding on a Class E violation.]*

8 (4) Notwithstanding any other provision of law, in all prosecutions in which an analysis of a
9 controlled substance or sample was conducted, a certified copy of the analytical report signed by
10 the director of a state police forensic laboratory or the analyst or forensic scientist conducting the
11 analysis shall be admitted as prima facie evidence of the results of the analytical findings unless the
12 defendant has provided notice of an objection in accordance with subsection (5) of this section.

13 (5) If the defendant intends to object at trial to the admission of a certified copy of an analytical
14 report as provided in subsection (4) of this section, not less than 15 days prior to trial the defendant
15 shall file written notice of the objection with the court and serve a copy on the district attorney.

16 (6) As used in this section:

17 (a) "Analyst" means a person employed by the Department of State Police to conduct analysis
18 in forensic laboratories established by the department under ORS 181A.150.

19 (b) "Presumptive test" includes, but is not limited to, chemical tests using Marquis reagent,
20 Duquenois-Levine reagent, Scott reagent system or modified Chen's reagent.

21 **SECTION 71.** ORS 670.280 is amended to read:

22 670.280. (1) As used in this section:

23 (a) "License" includes a registration, certification or permit.

24 (b) "Licensee" includes a registrant or a holder of a certification or permit.

25 (2) Except as provided in ORS 342.143 (3) or 342.175 (3), a licensing board, commission or agency
26 may not deny, suspend or revoke an occupational or professional license solely for the reason that
27 the applicant or licensee has been convicted of a crime, but it may consider the relationship of the
28 facts which support the conviction and all intervening circumstances to the specific occupational
29 or professional standards in determining the fitness of the person to receive or hold the license.
30 *[There is a rebuttable presumption as to each individual applicant or licensee that an existing or prior*
31 *conviction for conduct that has been classified or reclassified as a Class E violation does not make an*
32 *applicant for an occupational or professional license or a licensee with an occupational or professional*
33 *license unfit to receive or hold the license.]*

34 (3) Except as provided in ORS 342.143 (3) and 342.175 (3), a licensing board, commission or
35 agency may deny an occupational or professional license or impose discipline on a licensee based
36 on conduct that is not undertaken directly in the course of the licensed activity, but that is sub-
37 stantially related to the fitness and ability of the applicant or licensee to engage in the activity for
38 which the license is required. In determining whether the conduct is substantially related to the
39 fitness and ability of the applicant or licensee to engage in the activity for which the license is re-
40 quired, the licensing board, commission or agency shall consider the relationship of the facts with
41 respect to the conduct and all intervening circumstances to the specific occupational or professional
42 standards. *[There is a rebuttable presumption as to each individual applicant or licensee that an ex-*
43 *isting or prior conviction for conduct that has been classified or reclassified as a Class E violation is*
44 *not related to the fitness and ability of the applicant or licensee to engage in the activity for which the*
45 *license is required.]*

SECTION 72. ORS 153.043, 153.062, 293.665, 305.231, 419C.460 and 475.237 are repealed.

(Operative Dates and Applicability)

SECTION 73. (1) Sections 34 to 37, 51, 52 and 54 this 2024 Act, the amendments to ORS 51.050, 133.060, 135.050, 135.753, 137.225, 137.300, 153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 221.339, 316.502, 419C.370, 423.478, 423.483, 423.525, 430.384, 430.389, 430.392, 475.235, 475.752, 475.814, 475.824, 475.834, 475.854, 475.874, 475.884, 475.894 and 670.280 by sections 38 to 50 and 55 to 71 of this 2024 Act and the repeal of ORS 153.043, 153.062, 293.665, 305.231, 419C.460 and 475.237 by section 72 of this 2024 Act become operative on September 1, 2024.

(2) The Oregon Criminal Justice Commission, the Judicial Department, the Department of Corrections, law enforcement agencies and district attorneys may take any action before the operative date specified in subsection (1) of this section that is necessary for those entities to exercise, on and after the operative date specified in subsection (1) of this section, all of the powers, duties and functions imposed on the entities under sections 34 to 37, 51, 52 and 54 this 2024 Act, the amendments to ORS 51.050, 133.060, 135.050, 135.753, 137.225, 137.300, 153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 221.339, 316.502, 419C.370, 423.478, 423.483, 423.525, 430.384, 430.389, 430.392, 475.235, 475.752, 475.814, 475.824, 475.834, 475.854, 475.874, 475.884, 475.894 and 670.280 by sections 38 to 50 and 55 to 71 of this 2024 Act and the repeal of ORS 153.043, 153.062, 293.665, 305.231, 419C.460 and 475.237 by section 72 of this 2024 Act.

SECTION 74. Sections 35, 52 and 54 this 2024 Act, the amendments to ORS 51.050, 135.050, 135.753, 137.300, 153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 221.339, 316.502, 419C.370, 423.478, 423.483, 423.525, 430.384, 430.389, 430.392, 475.235, 475.752, 475.814, 475.824, 475.834, 475.854, 475.874, 475.884, 475.894 and 670.280 by sections 39 to 50 and 56 to 71 of this 2024 Act and the repeal of ORS 153.043, 153.062, 293.665, 305.231, 419C.460 and 475.237 by section 72 of this 2024 Act apply to conduct constituting an offense occurring, or alleged to have occurred, on or after September 1, 2024.

DATA TRACKING

SECTION 75. (1) For purposes of tracking racial or other demographic disparities in enforcement, the Oregon Criminal Justice Commission shall collect and analyze the following data concerning deflections, arrests, charges and convictions for unlawful possession of a controlled substance and delivery of a controlled substance offenses:

- (a) The date and location of each deflection and arrest;
- (b) The specific offense for which each person was arrested, charged or convicted; and
- (c) Demographic data for each person deflected, arrested, charged or convicted.

(2) Beginning no later than August 31, 2025, and annually thereafter, the commission shall provide a report to the interim committees of the Legislative Assembly related to the judiciary, in the manner described in ORS 192.245, containing an analysis of the data described in this section.

(3) In carrying out the commission’s duties under this section, the commission may use any information concerning deflections obtained as part of carrying out the duties of the commission under section 37 of this 2024 Act or as part of the grant program application,

1 monitoring and evaluation process described in sections 76 and 77 of this 2024 Act.

2 (4) Data reported under this section shall be used only for statistical purposes and not
3 for any other purpose. The data reports may not contain information that reveals the iden-
4 tity of any individual. Data collected by government agencies or held by the Oregon Criminal
5 Justice Commission under this section that may reveal the identity of any individual is ex-
6 empt from public disclosure in any manner.

7 (5) The Oregon Criminal Justice Commission may adopt rules to carry out the provisions
8 of this section.

9
10 **OREGON BEHAVIORAL HEALTH DEFLECTION PROGRAM**

11
12 **SECTION 76.** (1) As used in this section, “deflection program” means a collaborative
13 program between law enforcement agencies and behavioral health entities that assists indi-
14 viduals who may have substance use disorder, another behavioral health disorder or co-
15 occurring disorders, to create community-based pathways to treatment, recovery support
16 services, housing, case management or other services.

17 (2) The Oregon Behavioral Health Deflection Program is established within the Improving
18 People’s Access to Community-based Treatment, Supports and Services Grant Review Com-
19 mittee established under ORS 430.234. The program consists of grants awarded by the com-
20 mittee to counties and federally recognized tribal governments to fund deflection programs.

21 (3)(a) The purpose of the program described in this section is to:

22 (A) Address the need for more deflection programs to assist individuals whose behavioral
23 health conditions, including substance use disorder, lead to interactions with law enforce-
24 ment, incarceration, conviction and other engagement with the criminal justice system.

25 (B) Track and report data concerning deflection program outcomes in order to determine
26 the best practices for deflection programs within this state.

27 (b) ORS 430.230 to 430.236 do not apply to the program described in this section.

28 (4)(a) The committee shall develop a grant application process for awarding grants under
29 this section.

30 (b) An application for a grant under this section may be submitted by a county or the
31 designee of a county, or by a tribal government or designee of a tribal government. Only one
32 application per county may be submitted, but the application may request funding multiple
33 programs within a county.

34 (c) Prior to submitting an application for a grant under this section, the applicant shall
35 coordinate with all partners of the development and administration of the proposed deflection
36 program to ensure that the partners have the resources necessary to implement the de-
37 flection program. The partners shall include at least a district attorney, a law enforcement
38 agency, a community mental health program established under ORS 430.620 and a provider
39 from a Behavioral Health Resource Network established under ORS 430.389. Partners may
40 also include a treatment provider, a local mental health authority, a tribal government, a
41 peer support organization, a court or a local government body.

42 (d) An application for a grant under this section must contain:

43 (A) A description of the coordination with program partners required by paragraph (c)
44 of this subsection that has occurred;

45 (B) A description of the individuals who would be eligible for the program and what

1 **qualifies as a successful outcome, formulated in cooperation with the program partners de-**
2 **scribed in paragraph (c) of this subsection;**

3 **(C) A description of how the program for which the applicant is seeking funding is cul-**
4 **turally and linguistically responsive, trauma-informed and evidence-based;**

5 **(D) A description of a plan to address language access barriers when communicating**
6 **program referral options and program procedures to non-English speaking individuals; and**

7 **(E) A description of how the program coordinator will communicate with program part-**
8 **ners concerning persons participating in the program and any other matter necessary for**
9 **the administration of the program.**

10 **(5) To be eligible for funding under this section, a deflection program:**

11 **(a) Must be coordinated by or in consultation with a community mental health program,**
12 **a local mental health authority or a federally recognized tribal government;**

13 **(b) Must have a coordinator with the following program coordinator duties:**

14 **(A) Convening deflection program partners as needed for the operation of the program;**

15 **(B) Managing grant program funds awarded under this section; and**

16 **(C) Tracking and reporting data required by the Oregon Criminal Justice Commission**
17 **under section 37 of this 2024 Act;**

18 **(c) Must involve the partners described in subsection (4)(c) of this section; and**

19 **(d) May involve a partnership with one or more of the following entities:**

20 **(A) A first responder agency other than a law enforcement agency;**

21 **(B) A community provider;**

22 **(C) A treatment provider;**

23 **(D) A community-based organization;**

24 **(E) A case management provider;**

25 **(F) A recovery support services provider; or**

26 **(G) Any other individual or entity deemed necessary by the program coordinator to carry**
27 **out the purposes of the deflection program, including individuals with lived experience with**
28 **substance use disorder, a behavioral health disorder or co-occurring disorders.**

29 **(6) During a grant application period established by the committee, the maximum pro-**
30 **portion of grant funds available to an applicant shall be determined as follows:**

31 **(a) The proportion of grant funds available to an applicant other than a tribal govern-**
32 **ment shall be determined based on the county formula share employed by the Oversight and**
33 **Accountability Council established under ORS 430.388, but an applicant may not receive less**
34 **than \$150,000.**

35 **(b) The committee shall determine the proportion of funds available to an applicant that**
36 **is a federally recognized tribal government.**

37 **(7)(a) Grant funds awarded under this section may be used for:**

38 **(A) Deflection program expenses including but not limited to law enforcement employees,**
39 **deputy district attorneys and behavioral health treatment workers, including peer navigators**
40 **and mobile crisis and support services workers.**

41 **(B) Behavioral health workforce development.**

42 **(C) Capital construction of behavioral health treatment infrastructure.**

43 **(b) Notwithstanding paragraph (a) of this subsection, the committee may award planning**
44 **grants for the development of deflection programs.**

45 **(c) The committee may allocate up to three percent of program funds to support grantee**

1 **data collection and analysis or evaluation of outcome measures.**

2 **(8) The Oregon Criminal Justice Commission shall provide staff support to the grant**
3 **program.**

4 **(9) The committee and the commission may adopt rules to carry out the provisions of**
5 **this section.**

6 **SECTION 77. (1)(a) The Improving People’s Access to Community-based Treatment,**
7 **Supports and Services Grant Review Committee established under ORS 430.234, in cooper-**
8 **ation with the Oregon Criminal Justice Commission and the Oregon Health Authority, shall**
9 **monitor the progress of and evaluate program outcomes for applicants that receive grant**
10 **funds as part of the Oregon Behavioral Health Deflection Program established under section**
11 **76 of this 2024 Act.**

12 **(b) The committee shall share with the commission any data described in paragraph (a)**
13 **of this subsection that the commission requires to carry out the commission’s duties under**
14 **section 37 of this 2024 Act.**

15 **(2) Beginning no later than September 30, 2025, the committee shall annually report, in**
16 **the manner described in ORS 192.245 and in conjunction with the report required under ORS**
17 **430.245 (3), the findings of the evaluation described in subsection (1) of this section to the**
18 **relevant interim committees of the Legislative Assembly.**

19 **SECTION 78. The Oregon Behavioral Health Deflection Program Account is established**
20 **in the State Treasury, separate and distinct from the General Fund. All moneys in the ac-**
21 **count are continuously appropriated to the Oregon Criminal Justice Commission for the**
22 **purpose of carrying out the provisions of sections 76 and 77 of this 2024 Act.**

23 **SECTION 79. ORS 430.234 is amended to read:**

24 **430.234. (1) The Improving People’s Access to Community-based Treatment, Supports and Ser-**
25 **vices Grant Review Committee is established in the Oregon Criminal Justice Commission consisting**
26 **of [19] **21** members as follows:**

27 **(a) The Director of the Oregon Health Authority, or the director’s designee.**

28 **(b) The Director of the Department of Corrections, or the director’s designee.**

29 **(c) The Chief Justice of the Supreme Court, or the Chief Justice’s designee.**

30 **(d) The executive director of the Oregon Criminal Justice Commission or the director’s designee.**

31 **(e) **Two members of the Oregon Criminal Justice Commission, to be appointed by the****
32 **chair of the commission.**

33 **[(e)] (f) The Director of the Housing and Community Services Department or the director’s**
34 **designee.**

35 **[(f)] (g) Nine members appointed by the Governor including:**

36 **(A) A district attorney.**

37 **(B) An attorney specializing in defense of individuals with mental health or substance use dis-**
38 **orders.**

39 **(C) A chief of police.**

40 **(D) A county commissioner.**

41 **(E) A director of a hospital that provides acute mental health treatment.**

42 **(F) A representative of a community-based mental health treatment facility or a practitioner in**
43 **a community-based mental health treatment facility.**

44 **(G) A representative of a community-based substance use disorder treatment facility or a prac-**
45 **titioner in a community-based substance use disorder treatment facility.**

1 (H) A sheriff.

2 (I) A representative of a federally recognized Indian tribe.

3 [(g)] (h) One nonvoting member appointed by the President of the Senate from among members
4 of the Senate.

5 [(h)] (i) One nonvoting member appointed by the Speaker of the House of Representatives from
6 among members of the House of Representatives.

7 [(i)] (j) Three members of the public that represent the age demographics of the target popu-
8 lation.

9 (2) A majority of the voting members of the committee constitutes a quorum for the transaction
10 of business.

11 (3) The directors of the Oregon Criminal Justice Commission and the Oregon Health Authority
12 or their designees shall serve as cochairpersons.

13 (4) If there is a vacancy for any cause, the appointing authority shall make an appointment to
14 become effective immediately.

15 (5) The committee shall meet at times and places specified by the call of the cochairpersons or
16 a majority of the voting members of the committee.

17 (6) The Oregon Criminal Justice Commission shall provide staff support to the committee.

18 (7) Legislative members of the committee shall be entitled to payment of compensation and ex-
19 penses under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

20 (8) Members of the committee who are not members of the Legislative Assembly are not entitled
21 to compensation but may be reimbursed for actual and necessary travel and other expenses incurred
22 by the member in the performance of the member's official duties in the manner and amount pro-
23 vided in ORS 292.495.

24 (9) All agencies of state government, as defined in ORS 174.111, are directed to assist the com-
25 mittee in the performance of the duties of the committee and, to the extent permitted by laws re-
26 lating to confidentiality, to furnish information and advice that the members of the committee
27 consider necessary to perform their duties.

28
29 **EXPANSION OF WELFARE HOLDS**

30
31 **SECTION 80.** ORS 430.399 is amended to read:

32 430.399. (1) Any person who is intoxicated or under the influence of controlled substances in a
33 public place may be sent home or taken to a sobering facility or to [a *treatment*] **an appropriate**
34 **facility** by a police officer **or a member of a mobile crisis intervention team as defined in ORS**
35 **430.626**. If the person is incapacitated, the person shall be taken by the police officer **or team**
36 **member** to an appropriate [treatment] facility or sobering facility. If the health of the person ap-
37 pears to be in immediate danger, or the police officer **or team member** has reasonable cause to
38 believe the person is dangerous to self or to any other person, the person shall be taken by the
39 police officer **or team member** to an appropriate [treatment] facility or sobering facility. A person
40 shall be deemed incapacitated when in the opinion of the police officer **or team member** the person
41 is unable to make a rational decision as to acceptance of assistance.

42 (2) When a person is taken to [a *treatment*] **an appropriate** facility, the director of the
43 [treatment] facility shall determine whether the person shall be admitted as a patient, referred to
44 another [treatment] facility or a sobering facility or denied referral or admission. If the person is
45 incapacitated or the health of the person appears to be in immediate danger, or if the director has

1 reasonable cause to believe the person is dangerous to self or to any other person, the person must
2 be admitted. The person shall be discharged within [48] **72** hours unless the person has applied for
3 voluntary admission to the [treatment] facility.

4 (3) When a person is taken to a sobering facility, the staff of the sobering facility shall, con-
5 sistent with the facility’s comprehensive written policies and procedures, determine whether or not
6 the person shall be admitted into the sobering facility. A person who is admitted shall be discharged
7 from the sobering facility within 24 hours.

8 (4) In the absence of any appropriate [treatment] facility or sobering facility, or if a sobering
9 facility determines that a person should not be admitted to the sobering facility, an intoxicated
10 person or a person under the influence of controlled substances who would otherwise be taken by
11 [the] a police officer to [a treatment] **an appropriate** facility or sobering facility may be taken to the
12 city or county jail where the person may be held until no longer intoxicated, under the influence
13 of controlled substances or incapacitated.

14 (5) An intoxicated person or person under the influence of controlled substances, when taken
15 into custody by the police officer for a criminal offense, shall immediately be taken to the nearest
16 appropriate [treatment] facility when the condition of the person requires emergency medical treat-
17 ment.

18 (6) The records of a person at [a treatment] **an appropriate** facility or sobering facility may not,
19 without the person’s consent, be revealed to any person other than the director and staff of the
20 [treatment] facility or sobering facility. A person’s request that no disclosure be made of admission
21 to a [treatment] facility or sobering facility shall be honored unless the person is incapacitated or
22 disclosure of admission is required by ORS 430.397.

23 **SECTION 80a.** ORS 430.401 is amended to read:

24 430.401. [(1)] A police officer, **person acting under the authority of a mobile crisis inter-**
25 **vention team as defined in ORS 430.626**, physician, naturopathic physician, physician assistant,
26 nurse practitioner, judge, treatment facility, treatment facility staff member or sobering facility [*that*
27 *is registered with the Oregon Health Authority under ORS 430.262 based on a written request for*
28 *registration received by the authority before January 1, 2016*], or the staff of the sobering facility, may
29 not be held criminally or civilly liable for actions pursuant to ORS 430.315, 430.335, 430.397 to
30 430.401 and 430.402 provided the actions are in good faith, on probable cause and without malice.

31 [(2) *A sobering facility registered with the authority under ORS 430.262 based on a written request*
32 *for registration received by the authority on or after January 1, 2016, and the staff of the sobering fa-*
33 *cility, may not be held criminally or civilly liable for actions pursuant to ORS 430.315, 430.335, 430.397*
34 *to 430.401 and 430.402 provided the actions are in good faith, on probable cause and without gross*
35 *negligence.*]

36
37 **OPIOID USE DISORDER MEDICATION GRANT PROGRAM**

38
39 **SECTION 81. As used in sections 81 to 86 of this 2024 Act:**

40 (1) **“Commission” means the Oregon Criminal Justice Commission.**

41 (2) **“Local correctional facility” has the meaning given that term in ORS 169.005.**

42 (3) **“Tribal correctional facility” means a jail or prison in Oregon that is operated by a**
43 **federally recognized tribe and confines persons for more than 36 hours.**

44 **SECTION 82. (1) The Oregon Jail-Based Medications for Opioid Use Disorder Grant Pro-**
45 **gram is established in the Oregon Criminal Justice Commission to provide opioid use disorder**

1 treatment and transition planning services to persons in custody in local correctional facili-
2 ties and tribal correctional facilities.

3 (2) The commission, in collaboration with the Oregon Health Authority, shall administer
4 the grant program. At minimum, the commission and authority shall collaborate to provide
5 grant recipients support with technical assistance and best practices.

6 **SECTION 83.** (1) The Oregon Criminal Justice Commission shall award grants to cities
7 and counties in Oregon that operate a local correctional facility and to federally recognized
8 tribes in Oregon that operate a tribal correctional facility.

9 (2) Applicants may submit an individual application or a joint application in partnership
10 with other local correctional facilities or tribal correctional facilities.

11 (3) At least 10 percent of total moneys awarded to grant recipients must be awarded to
12 local correctional facilities in rural areas, as defined by the commission by rule, or tribal
13 correctional facilities. If any amount of the 10 percent is not awarded during an initial ap-
14 plication cycle, the remaining amount may be awarded to any otherwise eligible local
15 correctional facility or tribal correctional facility under a supplemental application cycle.

16 (4) The commission may enter a contract with a third party to provide statewide tech-
17 nical assistance to grant recipients.

18 (5) The commission shall consider geographic equity when awarding grant funds.

19 **SECTION 84.** Moneys awarded to grant recipients under section 83 of this 2024 Act may
20 be used to:

21 (1) Provide medication, telemedicine or any other reasonable treatment to persons in
22 custody with an opioid use disorder.

23 (2) Develop or operate mobile or nonmobile opioid treatment units.

24 (3) Administer screenings for opioid use disorder or risk of acute withdrawal.

25 (4) Facilitate transition planning services for persons in custody who seek or receive
26 opioid use disorder treatment.

27 (5) Undertake any other actions reasonably calculated to mitigate operational or struc-
28 tural barriers to providing opioid use disorder treatment in local correctional facilities or
29 tribal correctional facilities, including but not limited to mitigating any lack of secure stor-
30 age for medication.

31 **SECTION 85.** The Oregon Criminal Justice Commission shall adopt rules necessary to
32 administer sections 81 to 86 of this 2024 Act. The rules, at minimum, must:

33 (1) Establish a methodology for reviewing and approving grant applications and awarding
34 grants.

35 (2) Require applicants to submit a statement acknowledging that any grant funds re-
36 ceived must be expended in accordance with the allowable uses described in section 84 of this
37 2024 Act.

38 (3) Require applicants to submit a letter of commitment from each administrator of a
39 local correctional facility or tribal correctional facility who is associated with the application,
40 committing to participate in good faith in the grant program.

41 (4) Define "rural" for purposes of section 83 (3) of this 2024 Act.

42 **SECTION 86.** (1) The Oregon Criminal Justice Commission shall convene an advisory
43 committee to evaluate applications and make recommendations to the commission for the
44 awarding of grants under section 83 of this 2024 Act.

45 (2) The chairperson of the commission shall exercise discretion to appoint members to

1 serve on the advisory committee.

2 **SECTION 87.** (1) The Oregon Jail-Based Medications for Opioid Use Disorder Fund is es-
3 tablished in the State Treasury, separate and distinct from the General Fund. Interest
4 earned by the Oregon Jail-Based Medications for Opioid Use Disorder Fund shall be credited
5 to the fund. The fund consists of moneys appropriated or otherwise transferred to the fund
6 by the Legislative Assembly.

7 (2) Moneys in the fund are continuously appropriated to the Oregon Criminal Justice
8 Commission for the purposes of carrying out sections 81 to 86 of this 2024 Act.

9 **SECTION 88.** No later than December 1, 2024, the Oregon Criminal Justice Commission
10 shall submit a report, in the manner provided in ORS 192.245, to the interim committees of
11 the Legislative Assembly related to the judiciary and health care. The report must include:

12 (1) The name of each recipient of a grant under section 83 of this 2024 Act and the
13 amount of moneys each grant recipient has received to date.

14 (2) Opportunities, if any, for local correctional facilities or tribal correctional facilities
15 to obtain medications for opioid use disorder from state agencies.

16 (3) Any other information relevant to the provision of opioid use disorder treatment to
17 persons in custody in local correctional facilities or tribal correctional facilities.

18 **SECTION 89.** Section 88 of this 2024 Act is repealed on January 2, 2025.

19

20

CAPTIONS

21

22 **SECTION 90.** The unit captions used in this 2024 Act are provided only for the conven-
23 ience of the reader and do not become part of the statutory law of this state or express any
24 legislative intent in the enactment of this 2024 Act.

25

26

EMERGENCY CLAUSE

27

28 **SECTION 91.** This 2024 Act being necessary for the immediate preservation of the public
29 peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect
30 on its passage.

31

HB 4002 A STAFF MEASURE SUMMARY

Carrier: Rep. Kropf

Joint Committee On Addiction and Community Safety Response

Action Date: 02/27/24

Action: Do pass with amendments. (Printed A-Eng.)

House Vote

Yeas: 6 - Goodwin, Kropf, Mannix, Nosse, Sanchez, Smith G

Nays: 1 - Valderrama

Senate Vote

Yeas: 4 - Girod, Knopp, Lieber, Steiner

Nays: 1 - Prozanski

Fiscal: Fiscal impact issued

Revenue: Has minimal revenue impact

Prepared By: Gillian Fischer, LPRO Analyst

Meeting Dates: 2/5, 2/7, 2/26, 2/27

WHAT THE MEASURE DOES:

The measure removes barriers and establishes programs and policies aimed at improving access to substance use disorder (SUD) treatment. It also establishes a criminal justice framework for possession or delivery of controlled substances designed to encourage treatment over penalties such as jail or probation.

Detailed Summary

Payment for Substance Use Disorder Treatment (Sections 1 – 5)

- Prohibits health insurers and coordinated care organizations (CCOs) from imposing prior authorization or other utilization review for reimbursement of covered medications prescribed to treat substance use disorder (SUD).
- Requires health insurers and CCOs to reimburse the cost of refills of SUD medications.
- Specifies application to all forms of buprenorphine.
- Permits insurer to use prior authorization or other utilization management for opioids prescribed for purposes other than SUD treatment and for purposes of auditing claims or periodic redeterminations for need for continuing care.

Pharmacist Dispensing of Opioid Use Disorder Medication Refills (Sections 6 – 9)

- Permits pharmacist to dispense early refills of medications used to treat opioid use disorder to patients who have evidence of a previous prescription.
- Defines “early refill” and “refill.”
- Requires pharmacist to take specified steps when dispensing refill, including notifying patient’s primary care provider.
- Clarifies that record notations indicating previous prescription constitute verification of valid prescription.
- Requires Board of Pharmacy to adopt rules allowing pharmacist to obtain a registration number from the Drug Enforcement Administration (DEA) and store medications for the treatment of opioid use disorder on premises.
- Clarifies that prescription drug lockers located at the same physical address as the retail drug outlet with which the locker is associated do not need registration with the Oregon Board of Pharmacy or DEA.
- Requires prescription drug lockers located at other physical address to obtain registration from the DEA.

Access to Addiction Treatment by Members of Coordinated Care Organizations (Section 10)

- Adds addiction treatment providers to CCO network adequacy requirements.

HB 4002 A STAFF MEASURE SUMMARY

Alcohol and Drug Policy Commission Study (Sections 11 – 12)

- Requires Alcohol and Drug Policy Commission (ADPC) to conduct study of barriers and best practices for youth SUD, increasing medication-assisted treatment (MAT), and increasing SUD providers in the state.
- Requires ADPC to study data regarding insurance claim denials for SUD medications.
- Requires ADPC to provide status update and preliminary recommendation by September 30, 2024.
- Requires ADPC to deliver final report by September 15, 2025.

Certified Community Behavioral Health Clinic Program (Sections 13 – 15)

- Establishes a certified community behavioral health clinic (CCBHC) program in Oregon Health Authority (OHA).
- Requires OHA to appoint an advisory committee to advise in rule adoption.
- Requires OHA to either provide additional funding or have exception process if additional requirements on CCBHCs are made.
- Specifies actions to be taken by OHA in the development and adjustment of CCBHC rates.
- Requires CCBHC located in same geographic region as community mental health program (CMHP) to enter collaboration agreement with CMHP before OHA may approve CCBHC certification.
- Requires OHA to begin drafting state plan amendment for submission to the Center for Medicare and Medicaid Services (CMS) to add new CCBHCs prior to January 15, 2025.

Joint Task Force on Regional Behavioral Health Accountability (Sections 16 - 17)

- Establishes 26-member Joint Task Force on Regional Behavioral Health Accountability to make recommendations on improving governance of behavioral health systems and strengthening evidence-based funding decisions.
- Specifies membership.
- Requires Task Force to develop recommendations on improving collaboration and accountability, improving outcomes, and providing greater cost efficiencies.
- Requires Task Force to collaborate with task forces that have overlapping scopes of work.
- Requires Task Force to provide draft recommendations to Legislative Assembly by September 15, 2025, and final recommendations by December 15, 2025.
- Requires Director of Legislative and Policy Research Office (LPRO) to provide staff support to Task Force.
- Sunsets Task Force on January 2, 2026.

Task Force on Improving the Safety of Behavioral Health Workers (Sections 18 – 19)

- Establishes 16-member Task Force on Improving the Safety of Behavioral Health Workers and specifies membership.
- Requires Task Force to deliver preliminary report to Legislative Assembly containing draft recommendations on specified safety considerations by September 1, 2024.
- Requires Task Force to delivery final report to Legislative Assembly by December 1, 2024.
- Requires LPRO Director to provide staff support to Task Force.
- Sunsets Task Force January 2, 2026.

United We Heal Medicaid Payment Program (Section 20)

- Establishes United We Heal Medicaid Payment Program in OHA to provide supplemental payments to eligible behavioral health care providers to enable the providers to access enhanced apprenticeship and training programs and opportunities.
- Requires OHA to adopt rules.
- Requires behavioral health provider to enter into memorandum of understanding with OHA in order to participate in program.

Conforming amendments (Sections 21 - 23)

Delivery of Controlled Substances (Section 24)

(Delivery Definition Based on State v. Boyd)

HB 4002 A STAFF MEASURE SUMMARY

- Expands the definition of “deliver” or “delivery” to include the possession of a controlled substance with intent to transfer to another person.
- Defines “within 30 feet” and “within 500 feet.”

Delivery in Certain Locations (Section 25)

- Requires any conviction for delivery of a controlled substance (DCS) made within 30 ft of a public park, within 500 ft of a temporary residence shelter or within 500 ft of a treatment facility, if the person knows or reasonably should have known they were within 500 ft of said location, be classified as a Crime Category 7 of the sentencing guidelines grid of the Oregon Criminal Justice Commission (CJC) if the delivery is for consideration and as a Crime Category 5 if there is no consideration.
- Defines “public park,” “temporary residence shelter,” and “treatment facility.”

Reevaluation of Release Guidelines (Sections 26 and 27)

- Directs the Chief Justice’s Criminal Justice Advisory Council to reevaluate and update the pretrial release criteria for persons arrested for delivery or manufacture of controlled substances.
- Repeals this section on January 2nd, 2025.

Conforming Amendments (Sections 28 – 32)

Applicability (Section 33)

- Provides that sections 24, 25 and 28 to 32 of this act apply to conduct occurring on or after the effective date of this act.

Possession of Controlled Substances (Sections 34 and 35)

(Drug Enforcement Misdemeanor Provisions)

- Establishes a drug enforcement misdemeanor crime of possession of a controlled substance (PCS).
- Provides that a court may impose sentence for the crime of PCS as follows:
 - The court may impose a term of imprisonment of up to 180 days upon the request of the defendant; or
 - If a straight jail sentence is not imposed, the court shall suspend imposition of sentence and impose up to 18 months probation and shall not order any jail time as a condition of probation. Probation may be extended beyond 18 months by agreement of the probationer but may not exceed 5 years.
 - If the terms of probation are found to have been violated, structured jail sanctions may be imposed by agreement of the defendant or by order of a court, up to a total of 30 days jail. Any term of incarceration must allow for early release to a treatment facility.
 - Upon revocation of a probation sentence imposed as provided by this section, a court may order up to 180 days in jail with the option of early release to an inpatient or outpatient drug and alcohol treatment program under the supervisory authority of county community corrections and pursuant conditions of a release agreement.
 - Requires any jail sentence be reduced for any day the defendant is on release to a treatment program or previously served in-custody.
 - Prohibits a court from imposing any fines or fees for a conviction for a drug enforcement misdemeanor PCS.

Deflection Programs (Sections 36 - 38)

- Encourages law enforcement agencies and district attorneys, in lieu of arrest or prosecution of persons unlawfully in possession of a controlled substance constituting a drug enforcement misdemeanor, to refer or divert a person to a deflection program as defined by the measure.
- Directs the Criminal Justice Commission (CJC), no later than 12 months after the effective date of this 2024 act, to conduct a study to determine best practices for deflection programs and make recommendations for funding of the Oregon Behavioral Health Deflection Program.
- Requires the CJC, no later than 18 months after the effective date of this act, to develop standards and best practices for deflection programs using data received pursuant to sections 61 and 63 of this act.

HB 4002 A STAFF MEASURE SUMMARY

- Provides that the CJC shall establish a statewide system for tracking data concerning deflection program outcomes as specified and to maintain a publicly available list of deflection programs operating within the state.
- Defines “deflection program” as a collaborative program between law enforcement and behavioral health systems that assist individuals who may have substances use disorder, another behavioral health disorder, or co-occurring disorders, to create community-based pathways to treatment, recover support services, housing, case management, or other services.
- Allows for citations for the misdemeanor crime of PCS created by this section to include a date on which a person shall appear to be more than 30 days after the date the citation was issued to allow the person to participate in a deflection program as defined by this act.

Drug Enforcement Misdemeanor Conforming Amendments (Sections 39-46)

Supervision Duty and Funding (Sections 47- 50)

- Directs the Department of Corrections (DOC) to assume responsibility for community-based supervision for offenders on conditional discharge agreement for a drug enforcement misdemeanor. Expands definition of “designated drug-related misdemeanor” to include the drug enforcement misdemeanor constituting PCS established by this act.

Conditional Discharge (Sections 51 - 53)

- Requires a court, at the request of a person charged with a drug enforcement misdemeanor constituting PCS, to defer further proceedings and place the person on probation. Establishes terms authorized to be included in a conditional discharge agreement and certain rights a defendant must waive.
- Some of the requirements for entry into and terms of the agreement include:
 - That the person request to enter into the agreement no later than 30 days after the person’s first appearance, unless good cause is shown for delay.
 - An initial term of probation of 12-months and up to 30 days jail may be imposed as a sanction upon if terms of probation are violated.
 - Imposition of general conditions of probation as described in ORS 137.540(1) and a requirement that the defendant complete a substance abuse evaluation and treatment.
 - The understanding that the criminal charges filed will be dismissed with prejudice upon fulfillment of the probation terms as agreed, including upon early termination of probation period.

Expungement (Sections 54 - 56)

- Requires the sealing or expungement of records related to a person's conduct constituting a drug enforcement misdemeanor constituting PCS as follows:
 - Provides that deflection coordinators shall provide written verification that a person has completed a deflection program to the court, law enforcement agency, and the district attorney with authority to prosecute the offense and to the court with legal jurisdiction.
 - Within 60 days of receiving verification, the law enforcement agency and the district attorney shall seal all records related to the person’s participation in the program and the court shall seal all electronic records created concerning the offense.
 - If no further prosecutorial action has been taken after two years from the date of citation for or contact with law enforcement for conduct constituting a drug enforcement misdemeanor constituting PCS, any law enforcement agency or district attorney that possesses records related to the citation or conduct shall seal the records within 60 days of conclusion of two-year period. Any electronic court records related to the citation or conduct shall be sealed within 60 days of conclusion of two-year period.
 - When a person successfully completes probation as part of a conditional discharge agreement as described by this proposed act and the court dismissed the proceedings the court shall, within 90 days after dismissal, order all records relating to the arrest or citation and criminal proceedings be sealed. Directs the clerk of the court to forward a certified copy of said order to applicable agencies.

HB 4002 A STAFF MEASURE SUMMARY

- When a person successfully completes probation for conviction of a drug enforcement misdemeanor constituting PCS, the court shall, within 90 days of receiving notification of successful completion, order all records relating to the arrest or citation and criminal proceedings be sealed. Directs the clerk of the court to forward a certified copy of said order to applicable agencies.
- Three years from the date of conviction or dismissal of charge of a drug enforcement misdemeanor constituting PCS the court shall, within 60 days after the three-year period has concluded, order all records relating to the arrest or citation, charges, and criminal proceedings be sealed. Directs the clerk of the court to forward a certified copy of said order to applicable agencies.
- Directs the Judicial Department to develop a standardized form for obtaining requisite information necessary for entities to comply with an order to seal records as described, to be completed by the district attorney and defense attorney at the time a person enters probation.

Repealing Class E Violation Provisions (Sections 57 - 72)

- Repeals provisions relating to PCS as a Class E violation.

Operative Dates and Applicability (Sections 73 and 74)

- Provisions establishing the new drug enforcement misdemeanor constituting PCS and related to sentencing, supervision, and expungement of records for the crime, become operative on September 1, 2024, and apply to conduct occurring on or after that date.
- Authorizes specified agencies to take any actions necessary before the operative date specified to meet obligations created by the measure.

Data Tracking (Section 75)

- Requires the Oregon Criminal Justice Commission (CJC) to collect and analyze certain data and demographics concerning deflections, arrests, charges, and convictions for unlawful possession of a controlled substance and delivery of a controlled substance offenses.
- Directs the CJC, beginning August of 2025, to provide a report annually to the judiciary committees containing an analysis of the data.
- Exempts any information collected by the CJC that may reveal the identity of any individual from public disclosure in any manner.

Oregon Behavioral Health Deflection Program (Sections 76 - 79)

- Defines “deflection program” as a collaborative program between law enforcement and behavioral health systems that assist individuals who may have substances use disorder, another behavioral health disorder, or co-occurring disorders, to create community-based pathways to treatment, recover support services, housing, case management, or other services.
- Establishes the Oregon Behavioral Health Deflection Program (BHDP) within the Improving People’s Access to Community-based Treatment, Supports and Services (IMPACTS) grants program and directs the CJC to develop a separate grant application and review processes for community mental health programs.
- Provides minimum requirements for grant applications and programs to be eligible for funding.
- Directs the CJC, in cooperation with the Oregon Health Authority, to monitor progress of and evaluate program outcomes for applicants that receive grant funds and to report annually, beginning September 2025, to the relevant interim committees of the Legislative Assembly.
- Establishes the Oregon Behavioral Health Deflection Program Account and appropriates funds for the purpose of carrying out the provisions relating to the BHDP.
- Increases membership of the IMPACTS grants review committee from 19 to 21.

Expansion of Welfare Holds (Section 80)

- Extends authority provided in ORS 430.399 for a director of a treatment facility to hold an individual from up to 48 hours to up to 72 hours.

Opioid Use Disorder Medication Grant Program (Sections 81 – 89)

HB 4002 A STAFF MEASURE SUMMARY

- Establishes the Oregon Jail-Based Medications for Opioid Use Disorder Grant Program in the Oregon Criminal Justice Commission (CJC) to provide treatment and transition planning services to persons in custody in local and tribal correctional facilities.
- Directs the CJC, in collaboration with the Oregon Health Authority (OHA), to administer the grant program and establishes certain requirements for grant applicants.
- Requires at least 10 percent of total moneys awarded be to local correctional facilities in rural areas as defined by the measure or to tribal correctional facilities.
- Includes directives on how grant awards may be used by recipients.
- Establishes the Oregon Jail-Based Medications for Opioid Use Disorder Fund within the State Treasury to be continuously appropriated to the CJC for purposes of carrying out the obligations as directed by these sections.
- Directs the CJC to report on the grant program as described, no later than December 1, 2024, to the interim committees of the Legislative Assembly related to judiciary and health care.

Emergency Clause (Section 91)

- Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- The disparate impact of drug crime enforcement on communities of color and homeless
- Obstacles to finding and entering drug treatment programs currently will be exacerbated
- Availability and effectiveness of existing deflection program models around the state and nationally
- Effectiveness of criminalization of drug possession and use to address substance abuse disorders and encourage access to treatment
- Lived experiences of persons who have experienced substance abuse disorders and family members of persons with substance abuse disorders
- Effectiveness of current treatment models around the state, obstacles to providing treatment
- Ballot Measure 110 and decriminalization of possession of controlled substances
- Impact of public drug use on Oregon businesses
- The role of law enforcement in addressing substance abuse
- Insufficient funding for behavioral health and substance abuse treatment services
- Workforce shortages and burnout in behavioral health and substance abuse treatment service providers

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

In November 2020, Oregon voters passed Ballot Measure 110, also known as the Drug Addiction and Treatment Recovery Act, approving two shifts in how the state deals with the use of illegal drugs. First, the measure reduces penalties for drug possession, making Oregon the first state to decriminalize the personal possession of illegal drugs. Secondly, any savings achieved from the cost of enforcing criminal drug possession penalties are combined with marijuana sales revenue to fund a new drug addiction treatment and recovery grant program. Senate Bill 755 (2021) modified some of the requirements of Ballot Measure 110, including establishing Behavioral Health Resource Networks (BHRNs), which are a group of organizations that partner to provide substance use services free of charge to individuals seeking care. The measure required a BHRN to be established in each county and tribal area in the state.



Legislative Fiscal Office
 82nd Oregon Legislative Assembly
 2024 Regular Session

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 Reviewed by: Matt Stayner, Amanda Beitel, John Borden, Gregory Jolivette, Tom MacDonald, Haylee Morse-Miller, Paul Siebert, John Terpening
 Date: February 28, 2024

Bill Title: Relating to the addiction crisis in this state.

Government Unit(s) Affected: Oregon Health Authority, Board of Parole and Post-Prison Supervision, Board of Pharmacy, Burns Paiute Tribe, Cities, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz, Confederated Tribes of Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Coquille Indian Tribe, Counties, Cow Creek Band of Umpqua Indians, Criminal Justice Commission, Department of Consumer and Business Services, Department of Corrections, Department of Human Services, Department of Justice, Department of State Police, District Attorneys, Judicial Department, Klamath Tribes, Legislative Assembly, Legislative Counsel, Legislative Policy and Research Office, Oregon Youth Authority, Public Defense Commission, Task Force/Committee/Workgroup, Secretary of State

Summary of Fiscal Impact

2023-25 Biennium	General Fund	Lottery Funds	Other Funds	Federal Funds	Total Funds	Positions	FTE
Public Defense Commission	\$ 12,191,071	\$ -	\$ -	\$ -	\$ 12,191,071	18	9.00
Oregon Health Authority	\$ 2,059,651	\$ -	\$ -	\$ 1,067,379	\$ 3,127,030	15	7.34
Oregon Judicial Department	\$ 2,959,966	\$ -	\$ -	\$ -	\$ 2,959,966	21	10.00
Criminal Justice Commission	\$ 1,840,092	\$ -	\$ -	\$ -	\$ 1,840,092	5	2.75
Department of State Police	\$ 1,609,904	\$ -	\$ -	\$ -	\$ 1,609,904	15	6.30
Legislative Policy and Research Office	\$ 400,430	\$ -	\$ -	\$ -	\$ 400,430	2	1.26
Department of Justice	\$ -	\$ -	\$ 92,166	\$ -	\$ 92,166	1	0.17
Total Fiscal Impact	\$ 21,061,114	\$ -	\$ 92,166	\$ 1,067,379	\$ 22,220,659	77	36.82

2025-27 Biennium	General Fund	Lottery Funds	Other Funds	Federal Funds	Total Funds	Positions	FTE
Oregon Health Authority	\$ 13,080,016	\$ -	\$ -	\$27,355,015	\$ 40,435,031	15	12.75
Department of Corrections	\$ 27,250,261	\$ -	\$ -	\$ -	\$ 27,250,261	2	1.83
Public Defense Commission	\$ 26,527,769	\$ -	\$ -	\$ -	\$ 26,527,769	18	18.00
Oregon Judicial Department	\$ 5,350,998	\$ -	\$ -	\$ -	\$ 5,350,998	21	19.50
Department of State Police	\$ 3,548,788	\$ -	\$ -	\$ -	\$ 3,548,788	15	15.00
Criminal Justice Commission	\$ 2,604,048	\$ -	\$ -	\$ -	\$ 2,604,048	5	5.00
Legislative Policy and Research Office	\$ 607,862	\$ -	\$ -	\$ -	\$ 607,862	2	2.00
Department of Justice	\$ -	\$ -	\$ 276,632	\$ -	\$ 276,632	1	0.50
Total Fiscal Impact	\$ 78,969,742	\$ -	\$ 276,632	\$27,355,015	\$ 106,601,389	79	74.58

- The fiscal impact on county governments is discussed below.
- Funding is included in HB 5204 for programs established in this measure, including voluntary programs, Improving People’s Access to Community-based Treatment, Supports and Services (IMPACTS) and Oregon Jail-Based Medications for Opioid Use Disorder Grant Programs, established in the measure is included in HB 5204.
- Due to an estimated three-month lag between the measure’s effective date and the timing of first offenders adjudicated through the criminal justice system, the estimated fiscal impact on the Department of Corrections for Community Corrections will be incorporated into future population-related caseload forecasts and any associated budget adjustments. Therefore, it is not included in the table above, but is estimated to be \$1.3 million General Fund in 2023-25.
- The fiscal impact identified in the table for the Oregon Health Authority (OHA) does not include the duplicate Other Funds expenditure limitation necessary to pay for expenses through the OHA and Department of Human Services (DHS) Shared Services budget structure. Should this measure be adopted, the expenditure limitation will need to be established to properly budget for these expenses.

Measure Description

Behavioral Health (Sections 1 - 20)

The following sections of the fiscal impact statement summarize the behavioral health aspects of this measure, which include payments for substance use disorder treatment, regulations for dispensing opioid use disorder medication, and certification of certain behavioral health programs.

Payment for substance use disorder treatment (Sections 1 - 5)

The measure prohibits issuers of group health insurance, or an individual health benefit plan, from requiring prior authorization or any other form of utilization review for the reimbursement of a covered medication prescribed to treat a substance use disorder, including but not limited to opioid addiction and opioid withdrawal. In addition, the measure requires issuers of group health insurance or an individual health benefit plan to reimburse the cost of refills for specified medications if dispensed by a licensed health care professional.

Pharmacists prescribing and dispensing opioid use disorder medication refills (Sections 6 - 9)

The measure authorizes a pharmacist to prescribe and dispense an early refill of a medication for treatment of opioid use disorder. The measure requires pharmacists to complete a patient assessment, document the visit, and notify the patient’s primary care provider and licensed health care provider who made the previous

prescription. The measure also defines “prescription drug locker” and does not require prescription drug lockers located at the same physical address as a retail drug outlet to obtain a state license or registration, or federal registration. However, if the prescription drug locker is located at the same physical address as a retail drug outlet and is considered a remote dispensing site pharmacy, the locker is required to obtain a registration from the Drug Enforcement Administration.

The Oregon Board of Pharmacy (OBOP) is required to adopt rules to carry out the provisions related to prescribing and dispensing of opioid use disorder medication refills.

Alcohol and Drug Policy Commission study (Sections 11 - 12)

The measure requires the Alcohol and Drug Policy Commission (ADPC) to conduct a study of barriers and best practices for youth accessing opioid use disorder treatment, and to increase access to opioid use disorder medications. The Commission is required to submit a report to the Legislature on the status of the study and any preliminary recommendations by September 30, 2024, and to submit a second report including strategic plans and recommendations by September 15, 2025.

Certified community behavioral health clinic program (Sections 13 - 15)

The Certified Community Behavioral Health Clinic (CCBHC) program is established within the Oregon Health Authority (OHA) to certify eligible CBHCs that meet specific criteria outlined in the measure to receive prospective fixed cost-based rates for services provided to medical assistance enrollees. The OHA director is required to appoint a 15-member advisory committee to advise on the adoption of rules for CCBHCs. If OHA adopts additional requirements for CCBHCs that are not required by the measure, OHA is required to provide funding to the clinics to reimburse costs of these additional requirements and have a process to grant allowable variances to one or more of the requirements.

OHA is required, prior to January 15, 2025, to start preparing a draft state plan amendment to submit to the Centers for Medicare and Medicaid Services to implement the program and to seek federal approval for an amendment to the Medicaid state plan to allow the state to receive federal financial participation in the costs of the program.

United We Heal Payment Program (Section 20)

The measure establishes the United We Heal Medicaid Payment Program within OHA to increase the available behavioral health care workforce in Oregon. The measure requires OHA to provide supplemental medical assistance payments to employers of behavioral health care providers, enabling providers to offer enhanced apprenticeship and training programs and opportunities by participating in a labor-management training trust.

Public Safety (Sections 24 - 72)

The following sections of the fiscal impact statement summarize the public safety aspects of the measure, which includes modifications to possession of a controlled substance (PCS) crimes, creation of deflection programs, modifications to the expungement process and establishment of certain grant programs.

Delivery of controlled substances (Section 24)

The measure expands the definition of “deliver” or “delivery” under ORS 475.005 to include possession with the intent to transfer and applies to conduct occurring on or after the effective date of the measure.

Delivery in certain locations (Section 25)

The measure classifies the violation of specified controlled substances, constituting delivery with consideration, and the person knows or reasonably should have known that the delivery is occurring within 500 feet of a

treatment facility or a temporary residence shelter, or within 30 feet of a public park, as a crime category seven on the Crime Seriousness Scale used for sentencing guidelines.

The measure classifies the violation of specified controlled substances, constituting delivery, and the person knows, or reasonably should have known, that the delivery is occurring within 500 feet of a treatment facility or temporary residence shelter, or within 30 feet of a public park, as a crime category five of the sentencing guidelines grid of the Criminal Justice Commission (CJC).

The provisions related to delivery in certain locations apply to conduct occurring on or after the effective date of the measure.

Reevaluation of release guidelines (Sections 26 - 27)

The measure requires the Chief Justice of the Supreme Court, with input from the Criminal Justice Advisory Committee, to reevaluate and update the release guidelines for pretrial release orders for persons arrested or charged with delivery or manufacture of a controlled substance, by June 1, 2024.

The provisions related to reevaluation of release guidelines apply to conduct occurring on or after the effective date of the measure and are repealed on January 2, 2025.

Drug Enforcement Misdemeanors (Sections 34 - 35)

The measure creates a new Drug Enforcement Misdemeanor (DEM) for unlawful possession of a controlled substance (PCS). When imposing a DEM, the measure provides options for courts including a sentence of up to 18 months of probation, or a maximum of 180 days in jail upon request of the defendant. However, upon finding out a person has violated a condition of probation, the court may extend the length of probation to a maximum of five years.

Deflection program (Sections 36 - 38)

The measure defines “deflection program” to include a collaborative program between law enforcement agencies and behavioral health entities that work toward providing individuals with substance use disorders or other behavioral health disorders with community-based pathways to treatment, recovery, housing, case management, and other services. The measure encourages law enforcement agencies and District Attorneys (DAs) to refer or divert persons suspected of unlawful PCS constituting a DEM. Under the measure, an unlawful PCS charges that also includes other misdemeanor charges is not eligible for a deflection program. Additionally, the measure requires deflection coordinators to provide notification when a person completes a deflection program to law enforcement agencies, district attorneys, and courts for sealing records.

The measure requires CJC to establish a statewide system for tracking deflection program outcomes and to conduct a study within one year of the measure’s effective date, on deflection program best practices and recommendations for funding the Oregon Behavioral Health Deflection Program established by the measure. No later than 18 months after the effective date of the measure, CJC is required to develop standards and best practices for deflection programs in the state based on information received from the programs. The measure requires CJC to maintain a list of deflection programs operating within Oregon and to make the list publicly available on the Commission’s website.

The provisions related to deflection programs are operative September 1, 2024.

Conditional discharges for DEMs (Sections 51 - 53)

The measure creates provisions for a new conditional discharge program for persons convicted of unlawful PCS constituting a DEM. The measure permits an eligible person to request to enter a probation agreement within 30 days after the person’s first court appearance unless the court authorizes a later date. Additionally, the

measure specifies the terms of the probation agreement and authorizes courts to impose specific extensions or impose sanctions of up to 30 days of imprisonment if a person violates a probation agreement.

These provisions are operative September 1, 2024.

Expungements related to DEMs (Sections 54 - 56)

The measure creates new expungement provisions for persons who are referred to a deflection program for unlawful PCS constituting a DEM and successfully complete the deflection program. The measure requires that when law enforcement agencies receive written verification of completion of a deflection program, they are to provide verification to DAs and courts. After two years from a DEM conviction, and if no further action is taken, law enforcement agencies, DAs, and courts are required to seal any relatable electronic records within 60 days.

When a person successfully completes a probation agreement and the court discharges and dismisses the proceedings against the person, the court is required to enter an order sealing all related records within 90 days. When courts are notified that a person successfully completed a term of probation for a DEM, the court is required to enter an order sealing all related records within 90 days after the notification. Finally, after three years from when a person is convicted of a DEM, the court is required to enter an order sealing all related records, within 60 days after the three-year period has concluded. The measure requires the State Court Administrator to develop a standardized form to obtain necessary information for the Oregon Judicial Department (OJD) to seal records.

The measure modifies ORS 135.050 to prohibit courts from entering an order when the defendant is charged with only a PCS constituting a DEM. Provisions related to expungements of DEMs are operative September 1, 2024, and apply to conduct constituting an offense occurring or alleged to have occurred on or after September 1, 2024.

Repealing Class E violation provisions (Sections 57 - 72)

Under current law, monies deposited into the Criminal Fine Account (CFA) as a payment of fines on Class E violations are allocated to the Drug Treatment and Recovery Services (DTRS) Fund within OHA. The Department of Administrative Services Office of Economic Analysis (March 2024 forecast) includes \$31,200 of Class E violation revenue for the CFA, which is unchanged from the 2023 close-of-session forecast. The 2023 Legislature allocated this amount to the DTRS Fund in HB 5029 (2023). This measure removes the Class E violation from statute and any resulting revenue to the CFA that would have been transferred to the DTRS Fund.

Data tracking (Section 75)

The measure requires CJC to collect and analyze specific data concerning deflections, arrests, charges, and convictions for unlawful PCS and delivery of a controlled substance offenses for purpose of tracking racial and other demographic disparities in enforcement. CJC is required to report on this data to the legislature each year starting on August 31, 2025. The measure authorizes CJC to adopt rules to carry out these provisions.

Oregon Behavioral Health Deflection Program (Sections 76 - 79)

The measure establishes the Oregon Behavioral Health Deflection Program within the Improving People's Access to Community-based Treatment, Supports and Services (IMPACTS) Grant Review Committee, which is a committee overseen by CJC. The program consists of grants awarded by the committee to counties and federally recognized tribal governments to fund deflection programs. The program is required to address the need for deflection programs and track and report data concerning deflection program outcomes to determine the best practices for deflection programs in Oregon. The measure requires the Committee to develop an application process for awarding grants and specifies that the maximum amount awarded to an applicant other than a tribal government is to be determined based on the county formula share employed by the Oversight and Accountability Council but cannot be less than \$150,000. Grant funds can be used for specified deflection

program expenses, behavioral health workforce development, capital construction of behavioral health treatment infrastructure, deflection program planning grants, and up to 3% of program funds may be allocated to support grantee data collection, analysis, or evaluation of program outcomes. The measure requires CJC to provide staff support to the grant program.

The measure requires the IMPACTS Committee, in collaboration with CJC and OHA, to monitor the progress of, and evaluate program outcomes for, applicants that have received grant funding. The Committee is required to report to the Legislature by September 30, 2025 on the findings of the evaluation.

The measure establishes the Oregon Behavioral Health Deflection Program Account with monies continuously appropriated to CJC to provide Oregon Behavioral Health Deflection Program grants.

Expansion of welfare holds (Section 80)

The measure modifies ORS 430.399 to expand welfare hold time from 48 to 72 hours.

Opioid Use Medication Grant Program (Sections 81 - 89)

The measure establishes the Oregon Jail-Based Medications for Opioid Use Disorder Grant Program within CJC to provide opioid use disorder treatment and transition planning services to persons in custody in local correctional facilities and tribal correctional facilities. The measure outlines the eligible uses for the grants and requires CJC, in collaboration with OHA, to administer the grant program and provide grant recipients with technical assistance and best practices support. Grant awards are required to be distributed to cities and counties in Oregon that operate a local correctional facility, and to federally recognized tribes in Oregon that operate a tribal correctional facility, with 10% of grant awards to local correctional facilities in rural areas or tribal correctional facilities. The measure permits CJC to contract with a third party to provide statewide technical assistance to grant applicants and adopt necessary rules to administer the program. CJC is required to convene an advisory committee to evaluate applications and make recommendations to the commission for awarding grants.

The measure creates the Oregon Jail-Based Medications for Opioid Use Disorder Fund with monies continuously appropriated to CJC to provide grants through the Opioid Use Disorder Medication Grant Program. CJC is required to submit a report to the Legislature on specific opioid use disorder issues by December 1, 2024. This section is repealed on January 2, 2025.

Task Forces

The measure establishes two task forces and requires the Legislative Policy and Research Office (LPRO) to provide staff support for both.

Joint Task Force on Regional Behavioral Health Accountability (Sections 16 - 17)

The measure creates the 26-member Joint Task Force on Regional Behavioral Health Accountability. The task force is required to develop recommendations to improve collaboration and accountability across federal, state, and local behavioral health and substance use disorder treatment programs and funding, ensure equitable outcomes in publicly supported treatment settings across Oregon communities, provide greater cost efficiencies in Oregon's behavioral health system continuum of care, and establish broad access to methadone and other opioid use disorder medications. The bill directs LPRO to provide staff support for the task force. Members of the task force, who are not members of the Legislative Assembly or Governor appointees, are not entitled to compensation and reimbursement for expenses.

The task force is to report to the Legislature on draft recommendations by September 15, 2025, and final recommendations by December 15, 2025. This task force sunsets January 2, 2026

Task Force on Improving the Safety of Behavioral Health Workers (Sections 18 - 19)

The measure creates the 17-member Task Force on Improving the Safety of Behavioral Health Workers which is to produce a set of recommendations to improve the safety of behavioral health workers. The bill directs LPRO to provide staff support for the task force and Legislative Counsel to provide legal support for the drafting of legislative proposals. Members of the task force who are not members of the Legislative Assembly or appointed by the Governor are to be paid compensation and reimbursed for actual and necessary travel and other expenses.

The task force is to report to the Legislature on preliminary draft policy recommendations for improving worker safety by September 1, 2024, and final recommendations to address the specified safety concerns that are prevalent in the behavioral health industry by December 1, 2024. This task force sunsets January 2, 2026.

Fiscal Analysis

The fiscal impact of the measure is \$21.1 million General Fund, \$92,166 Other Funds, and \$1.1 million Federal Funds and 77 positions (36.82 FTE) for the 2023-25 biennium and \$79 million General Fund, \$276,632 Other Funds, and \$27.4 million Federal Funds and 79 positions (74.58 FTE) for the 2025-27 biennium.

An additional \$1.3 million General Fund impact is anticipated through increases to the community corrections caseload in 2023-25. As noted earlier, this estimated impact will be incorporated into future population-related caseload forecasts and any associated budget adjustments. The Legislative Fiscal Office notes that other budgetary adjustments necessary to implement this measure will be included in HB 5204.

Public Defense Commission

The fiscal impact for the Public Defense Commission (PDC) is estimated at either \$11.7 million General Fund for provider contracting (“community-based public defense”) or \$28 million General Fund for non-contract hourly paid to attorneys. Both estimates include funding for related costs such as expert witness and investigation expenses. The 2025-27 biennium cost is estimated to be either \$26.5 million General Fund or \$61.4 million General Fund. Costs for each biennium are for professional service payments with no associated positions or full-time equivalents.

PDC’s costs are based upon the following caseload estimates for financially eligible defendants: (a) felony charges for delivery of controlled substances (1,448 cases) including an estimate for parole violations (43 cases), which is based on 15 months of the 2023-25 biennium; and (b) DEM charges for PCS (10,640 cases), as well as collateral charges arising from arrests and charging of DEM (i.e., making the person ineligible for diversion) (530 cases), which are based on 10 months of the 2023-25 biennium. The DEM estimates are premised on the following assumptions: 50% of counties will opt to establish deflection programs, and of those 50% of DEM cases that are offered deflection, 50% will successfully complete the deflection program (i.e., not be charged by district attorneys), which means 25% of all DEM cases will be successfully deflected and 75% will be arraigned on charges and adjudicated.

The measure exempts a defendant charged with a DEM charge from paying an application fee, currently set by PDC at \$20, for determination of financial eligibility. This fee is normally collected by the courts and distributed to PDC for deposit into the Public Defense Services Account and used to pay for circuit court (income) verification staff and to offset the cost of public defense.

The 2024 Legislature has under consideration a funding request from PDC to increase contract attorney capacity by 10 Maximum Attorney Capacity for the remainder of the biennium (7.5 equivalent) at a cost of \$3 million, which is thought to capture most known outstanding contract provider capacity in the state.

PDC does not believe that even if either fiscal impact option were to be funded that the agency would be able to acquire the associated level of provider contract attorney capacity or hourly attorney capacity, as neither capacity is thought to currently exist within the state at those levels. In addition, acquisition of hourly attorney capacity at standard rates may prove difficult given the Temporary Hourly Increase Program (THIP) which funds hourly attorneys at enhanced rates to address the unrepresented defendant/persons crisis. The 2024 Legislature has under consideration a funding request from PDC for the THIP of \$7.9 million General Fund.

PDC has developed a more practicable fiscal impact estimate than the one discussed above and that takes into account for the current constraint of “available” qualified attorney capacity, which is acknowledged cannot be readily quantified. With this qualification, PDC’s fiscal impact includes a mixture of funding for provider contract increase (\$3 million), hourly attorneys (\$3 million), state trial-level attorneys and staff (\$2.5 million), provider-contracted case managers and/or paralegals, with the later used to increase existing provider contract attorney capacity (\$2 million), and expert witness and investigation expenses (\$1.7 million).

The 2023-25 fiscal impact is estimated to total \$12.2 million General Fund and 18 positions (9.00 FTE) with a 2025-27 biennium cost of \$26.5 million and 18 positions (18.00 FTE). Supplemental funding for the THIP may be needed in the second year of the biennium, as the program is slated to end on June 30, 2024, if special purpose Emergency Board funding for public defense proves insufficient.

Any financially eligible indigent defendant who could not be provided legal counsel would exacerbate the state’s current unrepresented defendant crisis until such time as legal counsel could be provided. Denial of counsel and delay in a criminal defendant’s right to speedy trial would lead to the violation of the constitutional rights of a defendant under the Sixth and Fourteenth Amendments to the United States Constitution, and places both the defendant and the state in legal jeopardy. In absence of a public defender, a defendant may avoid prosecution by having their case postponed or dismissed by a circuit court.

Oregon Health Authority

The fiscal impact on OHA is \$2.1 million General Fund, \$1.1 million Federal Funds, and 15 positions (7.34 FTE) for the 2023-25 biennium and \$13.1 million General Fund, \$27.4 million Federal Funds, and 15 positions (12.75 FTE) for the 2025-27 biennium. OHA’s Other Funds expenditure limitation will need to increase by \$81,704 in the 2023-25 biennium to support a shared services position established in the agency’s Office of Information Services.

To manage the required study on barriers and best practices for youth accessing opioid use disorder treatment and increasing access to opioid use disorder medications, OHA anticipates the need for one Program Analyst 4 (0.50 FTE) to plan and manage the workload, one Public Affairs Specialist (0.50 FTE) to develop strategic communication plans and draft recommendations, and one Research Analyst 3 (0.50 FTE) to plan, manage, and coordinate data collection and analysis for the 2023-25 biennium. These positions are limited duration and, for the purpose of the estimated fiscal impact, are assumed to be phased out January 2, 2026, when the study is repealed.

To implement the CCBHC Program, OHA anticipates needing seven permanent full-time positions (3.50 FTE) for the 2023-25 biennium and seven positions (7.00 FTE) in the 2025-27 biennium. These positions include the following:

- One Health Policy and Program Manager 2 (0.50 FTE) to oversee program operations.
- One Operations and Policy Analyst 3 (0.50 FTE) to provide Medicare support and policy development.
- One Research Analyst 3 (0.50 FTE) to review and analyze clinic data associated with Medicaid, and to research, recommend, and implement ways to improve the wraparound payment process.

- One Project Manager (0.50 FTE) to coordinate and manage expansion of CCBHC work and ensure timely deliverables. This position will facilitate and organize communications with internal and external partners.
- One Fiscal Analyst 3 (0.50 FTE) to lead work on review of CCBHC rates and assist in processing the increase in wraparound claims.
- One Actuary (0.50 FTE) to lead the review process of all CCBHC cost reporting and review federal rate methodology while providing technical assistance and financial reporting.
- One Operations and Policy Analyst 3 (0.50 FTE) to coordinate CCBHC data integrations, manage and coordinate data modifications, and ensure data quality and compliance.

OHA reports the cost to operate the 15-member advisory committee established under this measure are estimated at \$54,435 General Fund and \$54,435 Federal Funds to integrate the program across the state. CCBHC payments to 15 clinics in the 2025-27 biennium are estimated at \$36 million, which includes \$10.6 million General Fund and \$25.5 million Federal Funds.

OHA reports the agency will need one permanent full-time Operations and Policy Analyst 3 (0.50 FTE) and one permanent full-time Compliance Specialist 3 (0.50 FTE) for the 2023-25 biennium to monitor the progress and evaluate program outcomes for applicants that have received IMPACTS grant funding.

To implement the United We Heal Medicaid Payment Program, for the 2023-25 biennium, OHA anticipates needing one permanent full-time Operations and Policy Analyst 1 (0.38 FTE) to coordinate applications and provide technical and administrative support to the program, and one permanent full-time Operations and Policy Analyst 3 (0.38 FTE) to ensure compliance with regulations, collaborate with federal partners, and provide program guidance to partners.

An Operations and Policy Analyst 4 position (0.58 FTE) is needed in the Office of Information Service at OHA to support coordination of data resources and access CJC.

Oregon Judicial Department

The fiscal impact on OJD is \$3 million General Fund and 16 permanent full-time positions (8.75 FTE) and five permanent part-time positions (1.25 FTE) in the 2023-25 biennium; and \$5.4 million General Fund and 21 positions (19.50 FTE) for the 2025-27 biennium. Court staff are needed to process increased case filings, set asides, conditional discharges, and expungements related to PCS case filings.

For the increase in possession case filings, OJD needs nine permanent full-time Court Operations Specialist positions (4.50 FTE) in the 2023-25 biennium, with an estimated additional 14,995 staff hours to process full and partial set asides.

OJD estimates that 2,215 to 4,837 cases will be eligible for expungement. The agency reports that the Office of the State Court Administrator (OSCA) will need to expand the current centralized process to automate set asides to assist courts in the increased workload and required timelines. OSCA anticipates needing one permanent Senior Staff Counsel position (0.58 FTE), one permanent Analyst 4 position (0.58 FTE), and increase two existing positions from half-time to full-time; and one Analyst 4 position (0.29 FTE) and one Information Technology Developer position (0.29 FTE) to expand the current automated set aside process.

For management of possession cases for conditional discharge, OJD anticipates needing five permanent full-time Program Coordinators (2.50 FTE) and five permanent part-time Program Coordinators (1.25 FTE) for the 2023-25 biennium. OJD staff will monitor the implementation and track case filings.

Once actual caseload is identified, the agency may need to return during a subsequent legislative session or a meeting of the Emergency Board to request additional resources. Additionally, the overall fiscal impact is dependent on budget requests that are under consideration for the 2024 Legislative Session (e.g., for setting aside and sealing criminal records).

Criminal Justice Commission

The fiscal impact on CJC is \$1.8 million General Fund and five permanent positions (2.75 FTE) for the 2023-25 biennium and \$2.6 million General Fund and five positions (5.00 FTE) for the 2025-27 biennium as the positions are fully phased in.

CJC currently contracts with a third-party, the Research Electronic Data Capture (REDCap) data system, to capture data for existing IMPACTS grants. The REDCap data system is managed by Oregon Health and Science University (OHSU) and CJC reports the agency would need to expand its current engagement to implement the statewide data tracking provisions included in the measure. The estimated cost for the REDCap software and associated technical assistance and data analyses by OHSU is \$700,709 General Fund for the 2023-25 biennium.

CJC anticipates needing one permanent Research Analyst position (0.50 FTE) to lead the development and implementation of the statewide data tracking system and one Program Analyst 2 (0.63 FTE) to coordinate the administrative duties, compliance tracking, and outreach associated with the statewide data tracking system. In addition, these positions will provide research and administrative support to the IMPACTS Grant Review Committee. CJC will contract with OHSU to perform the required study to determine best practices for deflection programs. The estimated cost to contract out the study is \$350,000 General Fund in the 2023-25 biennium.

To lead the new Behavioral Health Deflection Program, Oregon Jail-Based Medications for Opioid Use Disorder Grant Program, and the IMPACTS Grant Review Committee, CJC anticipates needing one permanent Operations and Policy Analyst 4 position (0.50 FTE). To provide planning, management, and evaluation for the new programs, CJC would also need two permanent Program Analyst 3 positions (1.13 FTE).

The total personal services and position-related services and supplies costs are estimated at \$789,383 General Fund in the 2023-25 biennium.

Department of State Police

The fiscal impact on the Oregon State Police (OSP) is \$1.6 million General Fund and 15 positions (6.30 FTE) for the 2023-25 biennium and \$3.5 million General Fund and 15 positions (15.00 FTE) for the 2025-27 biennium.

With the anticipated increase in drug chemistry evidence analysis due to changes in PCS, and the processing of drug chemistry evidence needed in court proceedings, OSP anticipates needing four Forensic Scientists (1.68 FTE) and two Administrative Specialist 2 positions (0.84 FTE) for its crime lab. OSP reviewed data from 2019 to estimate the number of hours needed for the forensic lab workload. OSP reports that in 2019 the agency spent 11,000 hours working on PCS cases which dropped to approximately 5,000 hours in 2023. With the decrease in PCS cases from 2019 to 2023, OSP administratively moved its existing staff in the lab from drug chemistry to toxicology, where workload has progressively increased over that same period. As a result, OSP does not have the capacity to return existing staff back to the drug chemistry processes.

OSP also anticipates needing one Records Management Supervisor 1 position (0.42 FTE) and eight Administrative Specialist 2 positions (3.36 FTE) to address the increased workload in the Criminal Justice Information Services Division due to expungement provisions in Section 54.

Department of Corrections

The estimated fiscal impact on the Department of Corrections (DOC) is \$1.3 million General Fund in the 2023-25 biennium and \$27.6 million General Fund and two positions (1.83 FTE) in the 2025-27 biennium. These costs will increase to an estimated \$41.8 million General Fund in 2027-29, \$43 million General Fund in 2029-31, and \$43.1 million General Fund in 2031-33.

These estimated costs are from the anticipated increase in misdemeanor PCS convictions due to modifications to sentencing for drug delivery, drug delivery within a specified distance of certain locations, and the creation of a new DEM.

To determine the potential sentencing for modifications to drug delivery, CJC utilized sentencing data on PCS convictions from 2021 prior to the court decisions on *State v. Boyd*. Based on that data, CJC anticipates the measure will result in an additional 70 misdemeanor convictions a year, or 140 misdemeanor convictions per biennium. CJC estimates 36% of the new convictions will be sentenced to local control, with an average sentence length of 1.5 months, and 64% of new convictions will be sentenced to probation, with an average sentence of 24 months. CJC also anticipates an additional 15 felony convictions per year, or 30 additional felony convictions per biennium. Of that total, approximately 55% of new convictions will be sentenced to a DOC facility, with an average sentence length of 24.2 months, 6% of new convictions sentenced to local control, with an average sentence length of 1.7 months, and 39% of new convictions will be sentenced to probation, with an average sentence length of 36 months.

To determine the potential sentencing for modifications to drug delivery that occur within a specified distance of a treatment facility, temporary residence shelter, or public park, CJC utilized sentencing data on drug delivery convictions within 1,000 feet of a school from 2018 and 2019. Based on that data, CJC anticipates the measure will result in an additional 13 crime category five felony convictions a year, or 26 felony convictions per biennium. CJC estimates 28% of new convictions will be sentenced to a DOC facility, with an average sentence length of 16 months, 18% of new convictions will be sentenced to local control, with an average sentence of 1.1 months, and 54% of new convictions will be sentenced to probation, with an average sentence length of 24 months. CJC also anticipates an additional 13 crime level seven felony convictions per year, or 26 additional felony convictions per biennium. CJC estimates 39% of new convictions will be sentenced to a DOC facility, with an average sentence length of 22 months, 8% of new convictions will be sentenced to local control, with an average sentence length of 1.3 months, and 53% of new convictions will be sentenced to probation, with an average sentence length of 36 months.

To determine the potential sentencing for DEM's, CJC utilized sentencing data on PCS convictions from 2019 that totaled 1,115 cases, 100% of which were sentenced to probation, with an average sentence length of 18 months. For the Class A drug possession convictions being modified by the measure, CJC estimates 242 additional cases will receive a probation sentence of 18 months; formerly, these cases received court probation sentences. The measure also modifies felony Commercial Drug Offenses, which was 1% of all PCS convictions in 2019. CJC estimates 32 additional convictions for this offense. Of these new convictions, 8% will be sentenced to a DOC facility, with an average sentence length of 16.5 months, 6% will be sentenced to local control, with an average sentence length of 1.5 months, and 86% will be sentenced to probation, with an average sentence length of 36 months.

To determine the eligible population for deflection, CJC utilized PCS arrest data from 2019 and removed individuals with accompanying charges and persons already on active supervision. This resulted in an estimate of 3,187 cases eligible for deflection. CJC anticipates 23 counties will implement a deflection program by September 1, 2024, and of the eligible population in these counties, 50% will successfully complete the deflection. CJC estimates the remaining cases will either not be offered deflection in that county or the person will not successfully complete the available deflection program. Of these remaining cases, CJC estimates 25%

will receive a conditional discharge sentence of 12 months. In total, using the total cases in 2019 that would have been eligible for deflection as a proxy, this assumes 1,269 successful deflection cases, 1,523 unsuccessful cases, and 381 cases that will receive conditional discharge.

The fiscal impact assumes a three-month lag between the measure's effective date and the date first offenders may be received through the criminal justice system. The cost estimates include funds that would be distributed to county community corrections departments for the costs of probation, post-prison supervision, and local control. As part of the cost calculations, the estimated marginal cost per day for a DOC facility is \$26.05 per offender and the estimated cost per day for probation is \$13.83 per offender.

Should this measure become law, any deviation between the estimates assumed in this fiscal analysis and the actual number of criminal cases, convictions, and length of sentences issued would be incorporated in the Department of Administrative Services Office of Economic Analysis' corrections population forecast. These forecasts are issued twice per year and used to determine any necessary budget modifications for the agency.

DOC distributes General Fund to community corrections for the portion of costs associated with probation, post-prison supervision, and local control. If this measure becomes law, the estimated increased distribution from DOC for the 2023-25 biennium is \$1.3 million, and \$27.3 million for the 2025-27 biennium as the measure's provisions are fully implemented and the anticipated population increases.

DOC anticipates needing two permanent full-time Administrative Specialist 1 positions (1.83 FTE) beginning September 1, 2025, to provide administrative support to its Offender Information and Sentence Computation Unit. With the measure's process for the sealing of records, and utilizing CJC projections, DOC anticipates 3,000 set asides in the 2025-27 biennium and 4,000 set asides for the 2027-29 biennium to be processed.

Counties

The fiscal impact on counties to establish deflection programs is estimated to be \$42.5 million annually, assuming every county opted to operate a program. The estimated cost for the 23 counties that have indicated they intend to establish a deflection program totals \$30.2 million. Counties report that these new deflection programs would operate similarly to Marion County's Law Enforcement Assisted Diversion (LEAD) programs. Based on the LEAD program, counties anticipate needing Deputy District Attorneys, sworn law enforcement officer positions, community mental health providers to coordinate programs across the state, and establishment of two new positions, a Peer Support staff and County Coordinator position.

Based on data from 2019, counties anticipate approximately 4,000 eligible cases for deflection, or about 813 more than CJC's projection. Partial funding for county costs are assumed to be covered through the Oregon Behavioral Health Deflection Program grant formula outlined in the measure, which provides for a maximum grant based on the Oversight and Accountability Council distribution formula and a minimum of \$150,000 per county. HB 5204 includes \$20.7 million for Oregon Behavioral Health Deflection Program and \$9.8 million for Community Mental Health Programs to support deflection program coordination and services.

Counties could not provide specific estimates but indicated that there could be costs associated with the sentencing changes to delivery of controlled substances.

Legislative Policy and Research Office

The fiscal impact on LPRO is \$400,340 General Fund and two permanent full-time positions (1.26 FTE) for the 2023-25 biennium and \$607,862 General Fund and two positions (2.00 FTE) for the 2025-27 biennium. The measure requires LPRO to provide staff support to both task forces established under this measure.

Two permanent full-time positions would staff the Joint Task Force on Regional Behavioral Health Accountability given the scope of work and level of required subject matter expertise. Assuming monthly meetings over 14 months, this includes one permanent Senior Legislative Analyst (0.63 FTE) and one permanent Research Analyst (0.63 FTE), at a total cost of \$379,440 General Fund for the 2023-25 biennium.

LPRO will use existing staff to provide support to the Task Force on Improving the Safety of Behavioral Health Workers, assuming monthly meetings over seven months. The total fiscal impact for the 2023-25 biennium includes \$20,900 for members of the task force who are not members of the Legislative Assembly for compensation and reimbursement of actual and necessary travel and other expenses.

Although LPRO's current service level budget supports interim committees and task forces, if the work required by these task forces, or if the cumulative enactment of other legislation with interim committees and task forces exceeds expenditure levels beyond those assumed in the 2023-25 budget, additional General Fund resources may be required.

Department of Justice

The fiscal impact on the Department of Justice (DOJ) is \$92,166 Other Funds and one permanent part-time position (0.17 FTE) for the 2023-25 biennium and \$276,632 Other Funds and one permanent part-time position (0.50 FTE) for the 2025-27 biennium. The General Counsel Division within DOJ anticipates needing one permanent part-time Senior Assistant Attorney General position in the 2023-25 biennium to provide legal support to OHA while establishing the CCBHC Program. The billable rate DOJ will charge OHA is a legislatively approved hourly legal services rate.

The Appellate Division reports the fiscal impact of the measure is indeterminate. While the Appellate Division is unable to estimate the impact of the measure at this time, the measure is anticipated to increase costs once actual workload is identified.

Legislative Assembly

The overall fiscal impact on the Legislative Assembly is minimal for the 2023-25 biennium, based on legislator participation in two task forces. The below estimates include the Federal Insurance Contribution Act (FICA) tax, assumes the per diem remains at \$166 per day, and estimates an average mileage of 80 miles at the current rate of \$0.67 per mile. These estimates could change based on the number of meetings held. The task forces would not incur additional costs to the Legislative Assembly budget if the meetings were held at the Capitol building during the Legislative Session, or Task Force or Legislative Days.

Joint Task Force on Regional Behavioral Health Accountability

Four members of the task force will be legislative members who are entitled to per diem and travel reimbursement. Meetings are set by the chairperson, and it is unknown how often the task force would meet; however, assuming that the task force meets 15 times, the estimated per diem and travel reimbursement costs will total \$17,900.

Task Force on Improving the Safety of Behavioral Health Workers

Four members of the task force will be legislative members who are entitled to per diem and travel reimbursement. Meetings are set by the chairperson, and it is unknown how often the task force would meet; however, assuming that the task force meets nine times, the estimated per diem and travel reimbursement costs will total \$13,100.

Although the 2023-25 Legislative Assembly budget contains funds allocated for interim committees and task forces, if the work required by this task force, or if the cumulative enactment of other legislation with interim

committees and task forces exceeds expenditure levels beyond those assumed in the 2023-25 budget, additional General Fund resources may be required.

Department of Human Services

The fiscal impact on the Department of Human Services (DHS) is minimal for the 2023-25 biennium. Within current resources, DHS has positions that provide administrative support to CCBHC programs; however, in the 2025-27 biennium when CCHBC payments to providers for expanded services increases, the agency may need to return during a subsequent legislative session or a meeting of the Emergency Board to request additional resources.

Oregon Board of Pharmacy

The fiscal impact on the Oregon Board of Pharmacy is indeterminate. The agency reports that the measure defines prescription drug lockers that are not co-located with a retail drug outlet as a “remote dispensing site pharmacy”; however, the Board uses “remote dispensing site pharmacy” to mean telepharmacy, and this definition would not apply as there are not pharmacy technicians staffing the remote locations as required in ORS 689.700. If the measure becomes law, the provisions could have a substantial fiscal impact on OBOP due to additional rulemaking and enforcement procedures that would likely need to be adopted, as well as potential changes to the agency fee structure. This work could require additional resources.

There are currently three pharmacy prescription lockers registered with the agency. The Board collects an annual registration fee of \$225 from each. The provisions under Section 8 would reduce fee revenue due to the measure not requiring retail drug outlets to obtain a license or registration for lockers, and the Board would adopt rules to modify their fee structure, which can be absorbed within current resources.

District Attorneys

There is no fiscal impact on District Attorneys. The state funds elected official District Attorney positions and associated costs. The measure does not have a fiscal impact on District Attorney salaries or associated costs.

Other entities

There is a minimal fiscal impact on the Department of Consumer and Business Services, Oregon Youth Authority, Legislative Counsel, and cities. There is no fiscal impact on the Secretary of State, Board of Parole and Post-Prison Supervision and Oregon’s federally recognized Tribes.

Relevant Dates

The measure declares an emergency and takes effect on passage.