

Requested by JOINT COMMITTEE ON ADDICTION AND COMMUNITY SAFETY RESPONSE

**PROPOSED AMENDMENTS TO
HOUSE BILL 4002**

1 In line 2 of the printed bill, delete the period and insert “; creating new
2 provisions; amending ORS 51.050, 133.060, 135.050, 135.753, 137.225, 137.300,
3 153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 221.339, 414.609, 414.766,
4 419C.370, 423.478, 423.483, 423.525, 430.234, 430.384, 430.389, 430.392, 430.399,
5 431A.463, 475.005, 475.235, 475.245, 475.752, 475.814, 475.824, 475.834, 475.854,
6 475.874, 475.884, 475.894, 475.900, 670.280, 689.005, 743A.168, 750.055 and
7 750.333; repealing ORS 153.043, 153.062, 419C.460 and 475.237; and declaring
8 an emergency.”.

9 Delete lines 4 through 8 and insert:

10

11

“BEHAVIORAL HEALTH

12

“(Payment for Substance Use Disorder Treatment)

13

14

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

16

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

17

**“(a) ‘Group health insurance’ has the meaning given that term in
18 ORS 731.098.**

19

**“(b) ‘Health benefit plan’ has the meaning given that term in ORS
20 743B.005.**

21

“(c) ‘Substance use disorder’ has the meaning given that term in

1 the fifth edition of the Diagnostic and Statistical Manual of Mental
2 Disorders published by the American Psychiatric Association.

3 “(d) ‘Utilization review’ has the meaning given that term in ORS
4 743B.001.

5 “(2) Notwithstanding any provision of ORS 743A.168, an issuer of
6 group health insurance or an individual health benefit plan, other than
7 a grandfathered health plan:

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

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

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

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

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

27 “(a) Auditing claims for improper payments, fraud or abuse; or

28 “(b) Reasonable periodic redeterminations about the need for con-
29 tinuing care.

30 “(6) Coverage under this section may be subject to the same terms

1 **and conditions that apply to other benefits under the plan except for**
2 **utilization review as provided in subsection (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
7 person or using telemedicine, to determine a patient’s need for behavioral
8 health treatment.

9 “(b) ‘Behavioral health condition’ has the meaning prescribed by rule by
10 the Department of Consumer and Business Services.

11 “(c) ‘Behavioral health crisis’ means a disruption in an insured’s mental
12 or emotional stability or functioning resulting in an urgent need for imme-
13 diate outpatient treatment in an emergency department or admission to a
14 hospital to prevent a serious deterioration in the insured’s mental or phys-
15 ical health.

16 “(d) ‘Facility’ means a corporate or governmental entity or other provider
17 of services for the treatment of behavioral health conditions.

18 “(e) ‘Generally accepted standards of care’ means:

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

20 “(i) Are generally recognized by health care providers practicing in rele-
21 vant clinical specialties; and

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

23 “(B) Products and services that:

24 “(i) Address the specific needs of a patient for the purpose of screening
25 for, preventing, diagnosing, managing or treating an illness, injury or con-
26 dition or symptoms of an illness, injury or condition;

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

29 “(iii) Are not primarily for the economic benefit of an insurer or payer
30 or for the convenience of a patient, treating physician or other health care

1 provider.

2 “(f) ‘Group health insurer’ means an insurer, a health maintenance or-
3 ganization or a health care service contractor.

4 “(g) ‘Median maximum allowable reimbursement rate’ means the median
5 of all maximum allowable reimbursement rates, minus incentive payments,
6 paid for each billing code for each provider type during a calendar year.

7 “(h) ‘Prior authorization’ has the meaning given that term in ORS
8 743B.001.

9 “(i) ‘Program’ means a particular type or level of service that is organ-
10 izationally distinct within a facility.

11 “(j) ‘Provider’ means:

12 “(A) A behavioral health professional or medical professional licensed or
13 certified in this state who has met the credentialing requirement of a group
14 health insurer or an issuer of an individual health benefit plan that is not
15 a grandfathered health plan as defined in ORS 743B.005 and is otherwise el-
16 igible to receive reimbursement for coverage under the policy;

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

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

19 “(D) A day or partial hospitalization program;

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

21 “(F) A provider organization certified by the Oregon Health Authority
22 under subsection (9) of this section.

23 “(k) ‘Relevant clinical specialties’ includes but is not limited to:

24 “(A) Psychiatry;

25 “(B) Psychology;

26 “(C) Clinical sociology;

27 “(D) Addiction medicine and counseling; and

28 “(E) Behavioral health treatment.

29 “(L) ‘Standards of care and clinical practice guidelines’ includes but is
30 not limited to:

1 “(A) Patient placement criteria;
2 “(B) Recommendations of agencies of the federal government; and
3 “(C) Drug labeling approved by the United States Food and Drug Ad-
4 ministration.

5 “(m) ‘Utilization review’ has the meaning given that term in ORS
6 743B.001.

7 “(n) ‘Valid, evidence-based sources’ includes but is not limited to:

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

9 “(B) Recommendations of nonprofit health care provider professional as-
10 sociations; and

11 “(C) Specialty societies.

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

20 “(a) The coverage may be made subject to provisions of the policy that
21 apply to other benefits under the policy, including but not limited to pro-
22 visions relating to copayments, deductibles and coinsurance. Copayments,
23 deductibles and coinsurance for treatment in health care facilities or resi-
24 dential facilities may not be greater than those under the policy for expenses
25 of hospitalization in the treatment of other medical conditions. Copayments,
26 deductibles and coinsurance for outpatient treatment may not be greater
27 than those under the policy for expenses of outpatient treatment of other
28 medical conditions.

29 “(b) The coverage of behavioral health treatment may not be made subject
30 to treatment limitations, limits on total payments for treatment, limits on

1 duration of treatment or financial requirements unless similar limitations
2 or requirements are imposed on coverage of other medical conditions. The
3 coverage of eligible expenses of behavioral health treatment may be limited
4 to treatment that is medically necessary as determined in accordance with
5 this section and no more stringently under the policy than for other medical
6 conditions.

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

8 “(A) A behavioral health assessment;

9 “(B) No less than the level of services determined to be medically neces-
10 sary in a behavioral health assessment of the specific needs of a patient or
11 in a patient’s care plan:

12 “(i) To effectively treat the patient’s underlying behavioral health condi-
13 tion rather than the mere amelioration of current symptoms such as suicidal
14 ideation or psychosis; and

15 “(ii) For care following a behavioral health crisis, to transition the pa-
16 tient to a lower level of care;

17 “(C) Treatment of co-occurring behavioral health conditions or medical
18 conditions in a coordinated manner;

19 “(D) Treatment at the least intensive and least restrictive level of care
20 that is safe and most effective and meets the needs of the insured’s condition;

21 “(E) A lower level or less intensive care only if it is comparably as safe
22 and effective as treatment at a higher level of service or intensity;

23 “(F) Treatment to maintain functioning or prevent deterioration;

24 “(G) Treatment for an appropriate duration based on the insured’s par-
25 ticular needs;

26 “(H) Treatment appropriate to the unique needs of children and adoles-
27 cents;

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

29 “(J) Coordinated care and case management as defined by the Department
30 of Consumer and Business Services by rule.

1 “(d) The coverage of behavioral health treatment may not limit coverage
2 for treatment of pervasive or chronic behavioral health conditions to short-
3 term or acute behavioral health treatment at any level of care or placement.

4 “(e) A group health insurer or an issuer of an individual health benefit
5 plan other than a grandfathered health plan shall have a network of pro-
6 viders of behavioral health treatment sufficient to meet the standards de-
7 scribed in ORS 743B.505. If there is no in-network provider qualified to
8 timely deliver, as defined by rule, medically necessary behavioral treatment
9 to an insured in a geographic area, the group health insurer or issuer of an
10 individual health benefit plan shall provide coverage of out-of-network med-
11 ically necessary behavioral health treatment without any additional out-of-
12 pocket costs if provided by an available out-of-network provider that enters
13 into an agreement with the insurer to be reimbursed at in-network rates.

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

15 “(A) The provider is approved or certified by the Oregon Health Author-
16 ity;

17 “(B) The provider is accredited for the particular level of care for which
18 reimbursement is being requested by the Joint Commission or the Commis-
19 sion on Accreditation of Rehabilitation Facilities;

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

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

23 “(g) A group health insurer or an issuer of an individual health benefit
24 plan other than a grandfathered health plan must use the same methodology
25 to set reimbursement rates paid to behavioral health treatment providers
26 that the group health insurer or issuer of an individual health benefit plan
27 uses to set reimbursement rates for medical and surgical treatment providers.

28 “(h) A group health insurer or an issuer of an individual health benefit
29 plan other than a grandfathered health plan must update the methodology
30 and rates for reimbursing behavioral health treatment providers in a manner

1 equivalent to the manner in which the group health insurer or issuer of an
2 individual health benefit plan updates the methodology and rates for reim-
3 bursing medical and surgical treatment providers, unless otherwise required
4 by federal law.

5 “(i) A group health insurer or an issuer of an individual health benefit
6 plan other than a grandfathered health plan that reimburses out-of-network
7 providers for medical or surgical services must reimburse out-of-network be-
8 havioral health treatment providers on the same terms and at a rate that is
9 in parity with the rate paid to medical or surgical treatment providers.

10 “(j) Outpatient coverage of behavioral health treatment shall include
11 follow-up in-home service or outpatient services if clinically indicated under
12 criteria and guidelines described in subsection (5) of this section. The policy
13 may limit coverage for in-home service to persons who are homebound under
14 the care of a physician only if clinically indicated under criteria and guide-
15 lines described in subsection (5) of this section.

16 “(k)(A) Subject to **section 2 of this 2024 Act and to** the patient or client
17 confidentiality provisions of ORS 40.235 relating to physicians, ORS 40.240
18 relating to nurse practitioners, ORS 40.230 relating to psychologists, ORS
19 40.250 and 675.580 relating to licensed clinical social workers and ORS 40.262
20 relating to licensed professional counselors and licensed marriage and family
21 therapists, a group health insurer or issuer of an individual health benefit
22 plan may provide for review for level of treatment of admissions and con-
23 tinued stays for treatment in health facilities, residential facilities, day or
24 partial hospitalization programs and outpatient services by either staff of a
25 group health insurer or issuer of an individual health benefit plan or per-
26 sonnel under contract to the group health insurer or issuer of an individual
27 health benefit plan that is not a grandfathered health plan, or by a utiliza-
28 tion review contractor, who shall have the authority to certify for or deny
29 level of payment.

30 “(B) Review shall be made according to criteria made available to pro-

1 providers in advance upon request.

2 “(C) Review shall be performed by or under the direction of a physician
3 licensed under ORS 677.100 to 677.228, a psychologist licensed by the Oregon
4 Board of Psychology, a clinical social worker licensed by the State Board
5 of Licensed Social Workers or a professional counselor or marriage and
6 family therapist licensed by the Oregon Board of Licensed Professional
7 Counselors and Therapists, in accordance with standards of the National
8 Committee for Quality Assurance or Medicare review standards of the Cen-
9 ters for Medicare and Medicaid Services.

10 “(D) Review may involve prior [*approval*] **authorization**, concurrent re-
11 view of the continuation of treatment, post-treatment review or any combi-
12 nation of these. However, if prior [*approval*] **authorization** is required,
13 provision shall be made to allow for payment of urgent or emergency ad-
14 missions, subject to subsequent review. If prior [*approval*] **authorization** is
15 not required, group health insurers and issuers of individual health benefit
16 plans that are not grandfathered health plans shall permit providers,
17 policyholders or persons acting on their behalf to make advance inquiries
18 regarding the appropriateness of a particular admission to a treatment pro-
19 gram. Group health insurers and issuers of individual health benefit plans
20 that are not grandfathered health plans shall provide a timely response to
21 such inquiries. Noncontracting providers must cooperate with these proce-
22 dures to the same extent as contracting providers to be eligible for re-
23 imbursement.

24 “(L) Health maintenance organizations may limit the receipt of covered
25 services by enrollees to services provided by or upon referral by providers
26 contracting with the health maintenance organization. Health maintenance
27 organizations and health care service contractors may create substantive
28 plan benefit and reimbursement differentials at the same level as, and subject
29 to limitations no more restrictive than, those imposed on coverage or re-
30 imbursement of expenses arising out of other medical conditions and apply

1 them to contracting and noncontracting providers.

2 “(3) **Except as provided in section 2 of this 2024 Act**, this section does
3 not prohibit a group health insurer or issuer of an individual health benefit
4 plan that is not a grandfathered health plan from managing the provision
5 of benefits through common methods, including but not limited to selectively
6 contracted panels, health plan benefit differential designs, preadmission
7 screening, prior authorization of services, utilization review or other mech-
8 anisms designed to limit eligible expenses to those described in subsection
9 (2)(b) of this section provided such methods comply with the requirements
10 of this section.

11 “(4) The Legislative Assembly finds that health care cost containment is
12 necessary and intends to encourage health insurance plans designed to
13 achieve cost containment by ensuring that reimbursement is limited to ap-
14 propriate utilization under criteria incorporated into the insurance, either
15 directly or by reference, in accordance with this section.

16 “(5)(a) Any medical necessity, utilization or other clinical review con-
17 ducted for the diagnosis, prevention or treatment of behavioral health con-
18 ditions or relating to service intensity, level of care placement, continued
19 stay or discharge must be based solely on the following:

20 “(A) The current generally accepted standards of care.

21 “(B) For level of care placement decisions, the most recent version of the
22 levels of care placement criteria developed by the nonprofit professional as-
23 sociation for the relevant clinical specialty.

24 “(C) For medical necessity, utilization or other clinical review conducted
25 for the diagnosis, prevention or treatment of behavioral health conditions
26 that does not involve level of care placement decisions, other criteria and
27 guidelines may be utilized if such criteria and guidelines are based on the
28 current generally accepted standards of care including valid, evidence-based
29 sources and current treatment criteria or practice guidelines developed by
30 the nonprofit professional association for the relevant clinical specialty.

1 Such other criteria and guidelines must be made publicly available and made
2 available to insureds upon request to the extent permitted by copyright laws.

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

6 “(A) Are outside the scope of criteria and guidelines described in para-
7 graph (a)(B) of this subsection, if the guidelines were developed in accord-
8 ance with the current generally accepted standards of care; or

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

13 “(c) For all level of care placement decisions, an insurer shall authorize
14 placement at the level of care consistent with the insured’s score or assess-
15 ment using the relevant level of care placement criteria and guidelines as
16 specified in paragraph (a)(B) of this subsection. If the level of care indicated
17 by the criteria and guidelines is not available, the insurer shall authorize the
18 next higher level of care. If there is disagreement about the appropriate level
19 of care, the insurer shall provide to the provider of the service the full de-
20 tails of the insurer’s scoring or assessment using the relevant level of care
21 placement criteria and guidelines specified in paragraph (a)(B) of this sub-
22 section.

23 “(6) To ensure the proper use of any criteria and guidelines described in
24 subsection (5) of this section, a group health insurer or an issuer of an in-
25 dividual health benefit plan shall provide, at no cost:

26 “(a) A formal education program, presented by nonprofit clinical specialty
27 associations or other entities authorized by the department, to educate the
28 insurer’s or the issuer’s staff and any individuals described in subsection
29 (2)(k) of this section who conduct reviews.

30 “(b) To stakeholders, including participating providers and insureds, the

1 criteria and guidelines described in subsection (5) of this section and any
2 education or training materials or resources regarding the criteria and
3 guidelines.

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

9 “(a) A group health insurer or issuer of an individual health benefit plan
10 that is not a grandfathered health plan is not required to contract with all
11 providers that are eligible for reimbursement under this section.

12 “(b) An insurer or health care service contractor shall, subject to sub-
13 section (2) of this section, pay benefits toward the covered charges of non-
14 contracting providers of services for behavioral health treatment. The
15 insured shall, subject to subsection (2) of this section, have the right to use
16 the services of a noncontracting provider of behavioral health treatment,
17 whether or not the behavioral health treatment is provided by contracting
18 or noncontracting providers.

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

20 “(A) Educational or correctional services or sheltered living provided by
21 a school or halfway house;

22 “(B) A long-term residential mental health program that lasts longer than
23 45 days unless clinically indicated under criteria and guidelines described in
24 subsection (5) of this section;

25 “(C) Psychoanalysis or psychotherapy received as part of an educational
26 or training program, regardless of diagnosis or symptoms that may be pres-
27 ent;

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

29 “(E) Support groups.

30 “(b) Notwithstanding paragraph (a)(A) of this subsection, an insured may

1 receive covered outpatient services under the terms of the insured's policy
2 while the insured is living temporarily in a sheltered living situation.

3 “(9) The Oregon Health Authority shall establish a process for the certi-
4 fication of an organization described in subsection (1)(j)(F) of this section
5 that:

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

8 “(b) Does not contract with the authority, a subcontractor of the author-
9 ity or a community mental health program.

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

14 “(11) The Oregon Health Authority may adopt by rule an application fee
15 or a certification fee, or both, to be imposed on any provider organization
16 that applies for certification under subsection (9) of this section. Any fees
17 collected shall be paid into the Oregon Health Authority Fund established
18 in ORS 413.101 and shall be used only for carrying out the provisions of
19 subsection (9) of this section.

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

28 “(13) The Director of the Department of Consumer and Business Services
29 and the Oregon Health Authority, after notice and hearing, may adopt rea-
30 sonable rules not inconsistent with this section that are considered necessary

1 for the proper administration of this section. The director shall adopt rules
2 making it a violation of this section for a group health insurer or issuer of
3 an individual health benefit plan other than a grandfathered health plan to
4 require providers to bill using a specific billing code or to restrict the re-
5 imbursement paid for particular billing codes other than on the basis of
6 medical necessity.

7 “(14) This section does not:

8 “(a) Prohibit an insured from receiving behavioral health treatment from
9 an out-of-network provider or prevent an out-of-network behavioral health
10 provider from billing the insured for any unreimbursed cost of treatment.

11 “(b) Prohibit the use of value-based payment methods, including global
12 budgets or capitated, bundled, risk-based or other value-based payment
13 methods.

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

16 **“SECTION 4.** ORS 414.766 is amended to read:

17 “414.766. (1) Notwithstanding ORS 414.065 and 414.690, a coordinated care
18 organization must provide behavioral health services to its members that
19 include but are not limited to all of the following:

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

21 “(A) A behavioral health assessment; and

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

24 “(b) At least the minimum level of services that are medically necessary
25 to treat a member’s underlying behavioral health condition rather than a
26 mere amelioration of current symptoms, such as suicidal ideation or
27 psychosis, as determined in a behavioral health assessment of the member
28 or specified in the member’s care plan;

29 “(c) Treatment of co-occurring behavioral health disorders or medical
30 conditions in a coordinated manner;

1 “(d) Treatment at the least intensive and least restrictive level of care
2 that is safe and effective and meets the needs of the individual’s condition;

3 “(e) For all level of care placement decisions, placement at the level of
4 care consistent with a member’s score or assessment using the relevant level
5 of care placement criteria and guidelines;

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

8 “(g) Treatment to maintain functioning or prevent deterioration;

9 “(h) Treatment for an appropriate duration based on the individual’s
10 particular needs;

11 “(i) Treatment appropriate to the unique needs of children and adoles-
12 cents;

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

14 “(k) Treatment that is culturally and linguistically appropriate;

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

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

20 “(n) Mental health wellness appointments as prescribed by the Oregon
21 Health Authority by rule; **and**

22 **“(o) Medications and refills of medications prescribed for the**
23 **treatment of opioid use disorder and any co-occurring substance use**
24 **disorder or mental health condition, including early refills as described**
25 **in section 7 of this 2024 Act.**

26 “(2) If there is a disagreement about the level of care required by sub-
27 section (1)(e) or (f) of this section, a coordinated care organization shall
28 provide to the behavioral health treatment provider full details of the coor-
29 dinated care organization’s scoring or assessment, to the extent permitted
30 by the federal Health Insurance Portability and Accountability Act privacy

1 regulations, 45 C.F.R. parts 160 and 164, ORS 192.553 to 192.581 or other state
2 or federal laws limiting the disclosure of health information.

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

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

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

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

17 **“(3) Notwithstanding subsection (2) of this section, a coordinated**
18 **care organization may require prior authorization of a brand name**
19 **drug for medication-assisted treatment if a generic equivalent is**
20 **available.**

21 **“[(2)] (4) The authority may adopt rules to carry out this section.**

22

23 **“(Pharmacist Prescribing and Dispensing of**
24 **Opioid Use Disorder Medication Refills)**

25

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

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

29 **“(a) ‘Early refill’ means:**

30 **“(A) Up to three refills of a current prescription for a medication**

1 that a patient has lost or that has been stolen or destroyed; or

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

4 “(b) ‘Refill’ means a supply of a medication consistent with the
5 amount specified in the most recent written or electronic prescription
6 for the medication.

7 “(2) A pharmacist may prescribe and dispense to a patient an early
8 refill of a medication for the treatment of opioid use disorder subject
9 to subsection (3) of the section.

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

12 “(a) Complete a patient assessment to determine whether the pre-
13 scription is appropriate;

14 “(b) Document the patient visit and include notations regarding
15 evidence of the patient’s previous prescription from the patient’s li-
16 censed health care provider, information relating to the patient’s
17 treatment and other relevant information; and

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

22 “(4) Notations in a record documenting evidence of a patient’s pre-
23 vious prescription under subsection (3)(b) of this section constitute
24 verification of a valid prescription.

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

27 “(a) Pharmacist to apply for and obtain a registration number from
28 the Drug Enforcement Administration of the United States Depart-
29 ment of Justice as a mid-level practitioner; and

30 “(b) Pharmacy to store on the premises medications for the treat-

1 **ment of opioid use disorder.**

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

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

11 **“(2) A prescription drug locker located within this state and at the**
12 **same physical address as the retail drug outlet with which the pre-**
13 **scription drug locker is associated:**

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

17 **“(b) Is not required to obtain a registration from the Drug**
18 **Enforcement Administration of the United States Department of Jus-**
19 **tice.**

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

26 **“(4) The board may adopt rules to carry out this section.**

27 **“SECTION 9. ORS 689.005 is amended to read:**

28 **“689.005. As used in this chapter:**

29 **“(1) ‘Administer’ means the direct application of a drug or device whether**
30 **by injection, inhalation, ingestion, or any other means, to the body of a pa-**

1 tient or research subject by:

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

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

4 “(2) ‘Approved continuing pharmacy education program’ means those
5 seminars, classes, meetings, workshops and other educational programs on
6 the subject of pharmacy approved by the State Board of Pharmacy.

7 “(3) ‘Clinical pharmacy agreement’ means an agreement between a
8 pharmacist or pharmacy and a health care organization or a physician as
9 defined in ORS 677.010 or a naturopathic physician as defined in ORS 685.010
10 that permits the pharmacist to engage in the practice of clinical pharmacy
11 for the benefit of the patients of the health care organization, physician or
12 naturopathic physician.

13 “(4) ‘Continuing pharmacy education’ means:

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

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

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

18 “(5) ‘Continuing pharmacy education unit’ means the unit of measurement
19 of credits for approved continuing education courses and programs.

20 “(6) ‘Deliver’ or ‘delivery’ means the actual, constructive or attempted
21 transfer of a drug or device other than by administration from one person
22 to another, whether or not for a consideration.

23 “(7) ‘Device’ means an instrument, apparatus, implement, machine,
24 contrivance, implant, in vitro reagent or other similar or related article, in-
25 cluding any component part or accessory, which is required under federal
26 or state law to be prescribed by a practitioner and dispensed by a
27 pharmacist.

28 “(8) ‘Dispense’ or ‘dispensing’ means the preparation and delivery of a
29 prescription drug pursuant to a lawful order of a practitioner in a suitable
30 container appropriately labeled for subsequent administration to or use by

1 a patient or other individual entitled to receive the prescription drug.

2 “(9) ‘Distribute’ means the delivery of a drug other than by administering
3 or dispensing.

4 “(10) ‘Drug’ means:

5 “(a) Articles recognized as drugs in the official United States
6 Pharmacopoeia, official National Formulary, official Homeopathic
7 Pharmacopoeia, other drug compendium or any supplement to any of them;

8 “(b) Articles intended for use in the diagnosis, cure, mitigation, treatment
9 or prevention of disease in a human or other animal;

10 “(c) Articles, other than food, intended to affect the structure or any
11 function of the body of humans or other animals; and

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

14 “(11) ‘Drug order’ means a written order, in a hospital or other inpatient
15 care facility, for an ultimate user of any drug or device issued and signed
16 by a practitioner, or an order transmitted by other means of communication
17 from a practitioner, that is immediately reduced to writing by a pharmacist,
18 licensed nurse or other practitioner.

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

25 “(13) ‘Drug room’ means a secure and lockable location within an inpa-
26 tient care facility that does not have a licensed pharmacy.

27 “(14) ‘Electronically transmitted’ or ‘electronic transmission’ means a
28 communication sent or received through technological apparatuses, including
29 computer terminals or other equipment or mechanisms linked by telephone
30 or microwave relays, or similar apparatus having electrical, digital, mag-

1 netic, wireless, optical, electromagnetic or similar capabilities.

2 “(15) ‘Injectable hormonal contraceptive’ means a drug composed of a
3 hormone or a combination of hormones that is approved by the United States
4 Food and Drug Administration to prevent pregnancy and that a health care
5 practitioner administers to the patient by injection.

6 “(16) ‘Institutional drug outlet’ means hospitals and inpatient care facili-
7 ties where medications are dispensed to another health care professional for
8 administration to patients served by the hospitals or facilities.

9 “(17) ‘Intern’ means a person who is enrolled in or has completed a course
10 of study at a school or college of pharmacy approved by the board and who
11 is licensed with the board as an intern.

12 “(18) ‘Internship’ means a professional experiential program approved by
13 the board under the supervision of a licensed pharmacist registered with the
14 board as a preceptor.

15 “(19) ‘Labeling’ means the process of preparing and affixing of a label to
16 any drug container exclusive, however, of the labeling by a manufacturer,
17 packer or distributor of a nonprescription drug or commercially packaged
18 legend drug or device.

19 “(20) ‘Manufacture’ means the production, preparation, propagation, com-
20 pounding, conversion or processing of a device or a drug, either directly or
21 indirectly by extraction from substances of natural origin or independently
22 by means of chemical synthesis or by a combination of extraction and
23 chemical synthesis and includes any packaging or repackaging of the sub-
24 stances or labeling or relabeling of its container, except that this term does
25 not include the preparation or compounding of a drug by an individual for
26 their own use or the preparation, compounding, packaging or labeling of a
27 drug:

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

30 “(b) By a practitioner or by the practitioner’s authorization under super-

1 vision of the practitioner for the purpose of or as an incident to research,
2 teaching or chemical analysis and not for sale.

3 “(21) ‘Manufacturer’ means a person engaged in the manufacture of drugs.

4 “(22) ‘Nonprescription drug outlet’ means a business or other establish-
5 ment that is open to the general public for the sale or nonprofit distribution
6 of nonprescription drugs and is registered under ORS 689.305.

7 “(23) ‘Nonprescription drugs’ means drugs that may be sold without a
8 prescription and that are prepackaged for use by the consumer and labeled
9 in accordance with the requirements of the statutes and regulations of this
10 state and the federal government.

11 “(24) ‘Person’ means an individual, corporation, partnership, association
12 or other legal entity.

13 “(25) ‘Pharmacist’ means an individual licensed by this state to engage in
14 the practice of pharmacy or to engage in the practice of clinical pharmacy.

15 “(26) ‘Pharmacy’ means a place that meets the requirements of rules of
16 the board, is licensed and approved by the board where the practice of
17 pharmacy may lawfully occur and includes apothecaries, drug stores,
18 dispensaries, hospital outpatient pharmacies, pharmacy departments and
19 prescription laboratories but does not include a place used by a manufacturer
20 or wholesaler.

21 “(27) ‘Pharmacy technician’ means a person licensed by the board who
22 assists in the practice of pharmacy pursuant to rules of the board.

23 “(28) ‘Practice of clinical pharmacy’ means:

24 “(a) The health science discipline in which, in conjunction with the
25 patient’s other practitioners, a pharmacist provides patient care to optimize
26 medication therapy and to promote disease prevention and the patient’s
27 health and wellness;

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

30 “(c) The practice of pharmacy by a pharmacist pursuant to a clinical

1 pharmacy agreement.

2 “(29) ‘Practice of pharmacy’ means:

3 “(a) The interpretation and evaluation of prescription orders;

4 “(b) The compounding, dispensing and labeling of drugs and devices, ex-
5 cept labeling by a manufacturer, packer or distributor of nonprescription
6 drugs and commercially packaged legend drugs and devices;

7 “(c) The prescribing and administering of vaccines and immunizations and
8 the providing of patient care services pursuant to ORS 689.645;

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

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

12 “(f) The proper and safe storage of drugs and devices and the maintenance
13 of proper records regarding the safe storage of drugs and devices;

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

16 “(h) The monitoring of therapeutic response or adverse effect to drug
17 therapy;

18 “(i) The optimizing of drug therapy through the practice of clinical
19 pharmacy;

20 “(j) Patient care services, including medication therapy management and
21 comprehensive medication review;

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

25 “(L) The prescribing and administering of injectable hormonal
26 contraceptives and the prescribing and dispensing of self-administered
27 hormonal contraceptives pursuant to ORS 689.689;

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

30 “(n) The prescribing, dispensing and administering of preexposure

1 prophylactic antiretroviral therapies and post-exposure prophylactic
2 antiretroviral therapies, pursuant to ORS 689.704 and rules adopted by the
3 board under ORS 689.645 and 689.704; [and]

4 “(o) The delegation of tasks to other health care providers who are ap-
5 propriately trained and authorized to perform the delegated tasks; **and**

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

9 “(30) ‘Practitioner’ means a person licensed and operating within the
10 scope of such license to prescribe, dispense, conduct research with respect
11 to or administer drugs in the course of professional practice or research:

12 “(a) In this state; or

13 “(b) In another state or territory of the United States if the person does
14 not reside in Oregon and is registered under the federal Controlled Sub-
15 stances Act.

16 “(31) ‘Preceptor’ means a pharmacist or a person licensed by the board to
17 supervise the internship training of a licensed intern.

18 “(32) ‘Prescription drug’ or ‘legend drug’ means a drug that is:

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

21 “(A) ‘Caution: Federal law prohibits dispensing without prescription’; or

22 “(B) ‘Caution: Federal law restricts this drug to use by or on the order
23 of a licensed veterinarian’; or

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

26 “(33) ‘Prescription’ or ‘prescription drug order’ means a written, oral or
27 electronically transmitted direction, given by a practitioner authorized to
28 prescribe drugs, for the preparation and use of a drug. When the context
29 requires, ‘prescription’ also means the drug prepared under such written, oral
30 or electronically transmitted direction.

1 “(34) ‘Retail drug outlet’ means a place used for the conduct of the retail
2 sale, administering or dispensing or compounding of drugs or chemicals or
3 for the administering or dispensing of prescriptions and licensed by the board
4 as a place where the practice of pharmacy may lawfully occur.

5 “(35) ‘Self-administered hormonal contraceptive’ means a drug composed
6 of a hormone or a combination of hormones that is approved by the United
7 States Food and Drug Administration to prevent pregnancy and that the
8 patient to whom the drug is prescribed may administer to oneself. ‘Self-
9 administered hormonal contraceptive’ includes, but is not limited to,
10 hormonal contraceptive patches and hormonal contraceptive pills.

11 “(36) ‘Third-party logistics provider’ means an entity that:

12 “(a) Provides or coordinates warehousing of, or other logistics services
13 for, a product in interstate commerce on behalf of a manufacturer, wholesale
14 distributor or dispenser of the product; and

15 “(b) Does not take ownership of, or have responsibility to direct the sale
16 or disposition of, the product.

17 “(37) ‘Unit dose’ means a sealed single-unit container so designed that the
18 contents are administered to the patient as a single dose, direct from the
19 container. Each unit dose container must bear a separate label, be labeled
20 with the name and strength of the medication, the name of the manufacturer
21 or distributor, an identifying lot number and, if applicable, the expiration
22 date of the medication.

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

27

28 **“(Access to Addiction Treatment**
29 **by Members of Coordinated Care Organizations)**

30

1 **“SECTION 10.** ORS 414.609 is amended to read:

2 “414.609. (1) A coordinated care organization that contracts with the
3 Oregon Health Authority must maintain a network of providers, **including**
4 **but not limited to addiction treatment providers**, sufficient in numbers
5 and areas of practice and geographically distributed in a manner to ensure
6 that the health services provided under the contract are reasonably accessi-
7 ble to members.

8 “(2) A member may transfer from one organization to another organiza-
9 tion no more than once during each enrollment period.

10
11 **“(Alcohol and Drug Policy Commission Study)**

12
13 **“SECTION 11. (1) The Alcohol and Drug Policy Commission created**
14 **under ORS 430.221 shall conduct a study of barriers to and best prac-**
15 **tices for:**

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

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

18 **“(A) Opioid use disorder medication treatment interventions and**
19 **the prescribing of opioid use disorder medication in emergency de-**
20 **partments; and**

21 **“(B) Increasing the number of providers of opioid use disorder**
22 **medications.**

23 **“(2) In studying the barriers to and best practices for youth ac-**
24 **cessing opioid use disorder treatment under subsection (1)(a) of this**
25 **section, the commission shall collaborate with participating state**
26 **agencies, as defined in ORS 430.221, and the System of Care Advisory**
27 **Council established in ORS 418.978.**

28 **“(3) No later than September 30, 2024, the commission shall provide**
29 **to the interim committees of the Legislative Assembly related to**
30 **health a report on the status of the study and any preliminary rec-**

1 **ommendations that the commission has developed.**

2 **“(4) No later than September 15, 2025, the commission shall report**
3 **to the interim committees of the Legislative Assembly related to be-**
4 **havioral health, in the manner provided in ORS 192.245:**

5 **“(a) A strategic plan to improve the access of youth to opioid use**
6 **disorder treatment;**

7 **“(b) A strategic plan that includes evidence-based and evidence-**
8 **informed strategies for increasing the number of opioid use disorder**
9 **treatment providers statewide and expanding the capacity of the opioid**
10 **use disorder treatment system in this state;**

11 **“(c) Recommendations for reducing the barriers to accessing opioid**
12 **use disorder treatment, including barriers to the provision of opioid**
13 **use disorder treatment interventions in emergency departments; and**

14 **“(d) Needed changes to address obstacles encountered by behavioral**
15 **health providers when seeking health insurance reimbursement for**
16 **opioid use disorder medications, including but not limited to:**

17 **“(A) Requiring providers to use specialty pharmacies instead of**
18 **purchasing medications directly from vendors and billing the insurers;**

19 **“(B) Limiting the coverage of opioid use disorder treatment to spe-**
20 **cific forms of medications, such as sublingual or injectable forms;**

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

23 **“(D) Obstacles identified from data regarding insurance claim de-**
24 **nials, including retroactive denials, of reimbursement for opioid use**
25 **disorder medications.**

26 **“SECTION 12. Section 11 of this 2024 Act is repealed on January 2,**
27 **2026.**

28

29 **“(Certified Community Behavioral Health Clinic Program)**

30

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

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

9 **“(2) The authority shall appoint an advisory committee, as de-**
10 **scribed in ORS 183.333, to advise the authority in the adoption of rules**
11 **to carry out this section. The Director of the Oregon Health Authority**
12 **shall appoint to the advisory committee 15 individuals who represent**
13 **a diverse constituency and are knowledgeable about certified commu-**
14 **nity behavioral health clinic delivery systems, patient-centered pri-**
15 **mary care home delivery systems, integrated health care or health**
16 **care quality. Rules adopted by the authority:**

17 **“(a) Must be consistent with the criteria adopted by the United**
18 **States Department of Health and Human Services for certified com-**
19 **munity behavioral health clinics; and**

20 **“(b) Shall ensure that certified community behavioral health clinics**
21 **provide, either directly or by referral through formal relationships**
22 **with other providers, all of the services required by the criteria**
23 **adopted by the United States Department of Health and Human Ser-**
24 **vices for certified community behavioral health clinics.**

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

28 **“(a) Provide funding to the clinics sufficient to reimburse the costs**
29 **of the additional requirements; or**

30 **“(b) Have a process for granting allowable variances to one or more**

1 of the requirements.

2 “(4)(a) A certified community behavioral health clinic shall com-
3 plete the federally required cost report for the authority to review and
4 approve the clinic’s prospective fixed cost-based rate for a patient en-
5 counter.

6 “(b) The authority shall regularly adjust the prospective fixed
7 cost-based rate at intervals consistent with federal guidance. A certi-
8 fied community behavioral health clinic may request a rate adjust-
9 ment if a clinic changes the clinic’s scope of services.

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

13 “(A) An estimate of the projected cost of anticipated expansions of
14 the certified community behavioral health clinic program or the pop-
15 ulations served by the program; and

16 “(B) The cost of the technology and data systems needed by each
17 clinic to track and measure outcomes and other data that the au-
18 thority requires to be tracked or measured.

19 “(d) The authority shall review federal guidance on rate setting for
20 clinics that are dually certified as federally qualified health centers,
21 as defined in 42 U.S.C. 1396d(1)(2), and as certified community behav-
22 ioral 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
25 certified community behavioral health clinic and a community mental
26 health program:

27 “(a) Before the authority may approve the certification of a certi-
28 fied community behavioral health clinic, the certified community be-
29 havioral health clinic and the community mental health program shall
30 enter into a written agreement concerning collaboration between the

1 clinic and the program in the coordination of services that are pro-
2 vided by both the clinic and the program.

3 “(b) The authority shall develop a plan to ensure:

4 “(A) Coordination of services between the clinic and the program
5 to minimize service redundancies; and

6 “(B) Financial efficiencies to maximize financial benefits.

7 “(6) This section does not require a clinic that is eligible for certi-
8 fication under this section to apply for certification. Participation in
9 the certified community behavioral health clinic program is voluntary.

10 **“SECTION 15. (1) Prior to January 15, 2025, the Oregon Health Au-
11 thority shall begin preparing a draft state plan amendment to submit
12 to the Centers for Medicare and Medicaid Services to implement the
13 certified community behavioral health clinic program established in
14 section 14 of this 2024 Act.**

15 **“(2) Prior to the expiration of the community behavioral health
16 clinic demonstration program described in section 223 of the Protect-
17 ing Access to Medicare Act of 2014 (P.L. 113-93), as amended, the au-
18 thority shall seek federal approval for an amendment to the Medicaid
19 state plan to allow the state to receive federal financial participation
20 in the costs of the certified community behavioral health clinic pro-
21 gram established in section 14 of this 2024 Act.**

22 **“(3) The authority shall explore all prospective rate methodologies
23 allowed for the certified community behavioral health clinic model by
24 the Centers for Medicare and Medicaid Services.**

25
26 **“(Joint Task Force on Regional Behavioral Health Accountability)**

27
28 **“SECTION 16. (1) The Joint Task Force on Regional Behavioral
29 Health Accountability is established to make recommendations to the
30 Legislative Assembly to improve the governance of behavioral health**

1 systems and strengthen evidence-based and equitable funding decisions
2 and accountability of behavioral health systems.

3 **“(2) The task force consists of 26 members appointed as follows:**

4 **“(a) The President of the Senate shall appoint two members from**
5 **among members of the Senate, one from the majority party and one**
6 **from the minority party.**

7 **“(b) The Speaker of the House of Representatives shall appoint two**
8 **members from among members of the House of Representatives, one**
9 **from the majority party and one from the minority party.**

10 **“(c) The Chief Justice of the Supreme Court shall appoint one**
11 **member from the Judicial Department.**

12 **“(c) The Governor shall appoint 21 members as follows:**

13 **“(A) One member representing the Oregon Health Authority;**

14 **“(B) One member representing the Alcohol and Drug Policy Com-**
15 **mission;**

16 **“(C) One member representing the Department of Human Services;**

17 **“(D) One member representing coordinated care organizations;**

18 **“(E) One member representing providers of psychiatric care in**
19 **clinical settings;**

20 **“(F) One member representing Oregon counties;**

21 **“(G) One member representing Oregon cities;**

22 **“(H) One member who provides county mental health services or**
23 **who represents county mental health providers;**

24 **“(I) One member from a large labor organization representing be-**
25 **havioral health workers;**

26 **“(J) One member who is a behavioral health provider or who re-**
27 **presents private and nonprofit behavioral health providers;**

28 **“(K) One member who provides nonprofit substance use disorder**
29 **treatment or who represents nonprofit substance use disorder treat-**
30 **ment providers;**

1 **“(L) One member from a large labor organization representing**
2 **nurses;**

3 **“(M) One member who is a licensed doctor or who represents li-**
4 **censed doctors with experience in behavioral health or substance use**
5 **disorder treatment programs, care delivery or funding;**

6 **“(N) One member from a business coalition representing the hos-**
7 **pital industry;**

8 **“(O) One member from a business coalition representing the insur-**
9 **ance industry;**

10 **“(P) One member from a business coalition representing**
11 **pharmacists;**

12 **“(Q) One member representing a consumer of behavioral health**
13 **services;**

14 **“(R) One member representing Oregon’s nine federally recognized**
15 **tribes;**

16 **“(S) One member who is an emergency response transportation**
17 **provider;**

18 **“(T) One member representing long term care facilities; and**

19 **“(U) One member with experience in regional behavioral health**
20 **system governance.**

21 **“(3) The task force, in collaboration with any other task forces that**
22 **are charged with scopes of work that overlap or intersect with the**
23 **charges of the Joint Task Force on Regional Behavioral Health Ac-**
24 **countability, shall develop recommendations to:**

25 **“(a) Improve collaboration and accountability across federal, state**
26 **and local behavioral health and substance use disorder treatment**
27 **programs and funding;**

28 **“(b) Ensure equitable outcomes in publicly supported treatment**
29 **settings across Oregon communities;**

30 **“(c) Provide greater cost efficiencies in the continuum of care of**

1 Oregon's behavioral health system; and

2 "(d) Establish broad access to methadone and other opioid use dis-
3 order medications through mobile devices, telehealth and pharmacy-
4 based services to measurably increase the engagement statewide of
5 individuals with opioid use disorder in opioid use disorder treatment.

6 "(4) Recommendations developed under subsection (3) of this sec-
7 tion should include:

8 "(a) Any statutory changes needed to ensure that federal, state and
9 local funds are being spent to maximize outcomes and resource effi-
10 ciency;

11 "(b) Policy changes recommended based on a comparative analysis
12 of policies in other states that spend less on treatment but demon-
13 strate better behavioral health and substance use disorder treatment
14 outcomes, including better outcomes for groups that are dispropor-
15 tionately impacted by health inequities; and

16 "(c) Any governance changes that would facilitate greater align-
17 ment of spending decisions between federal, state and local behavioral
18 health and substance use disorder treatment programs.

19 "(5) A majority of the voting members of the task force constitutes
20 a quorum for the transaction of business.

21 "(6) Official action by the task force requires the approval of a
22 majority of the voting members of the task force.

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

25 "(8) If there is a vacancy for any cause, the appointing authority
26 shall make an appointment to become immediately effective.

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

30 "(10) The task force may adopt rules necessary for the operation

1 of the task force.

2 “(11)(a) The task force shall provide draft recommendations devel-
3 oped under subsections (3) and (4) of this section to the interim com-
4 mittees of the Legislative Assembly related to health no later than
5 September 15, 2025.

6 “(b) The task force shall submit a final report of the task force’s
7 recommendations, in the manner provided by ORS 192.245, to the in-
8 terim committees of the Legislative Assembly related to health no
9 later than December 15, 2025.

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

12 “(a) Researching and providing analysis on current behavioral
13 health funding streams that support the continuum of care across
14 Oregon communities;

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

18 “(c) Reviewing data related to the challenges faced by individuals
19 receiving substance use disorder treatment in publicly supported
20 treatment settings; and

21 “(d) Reviewing the responsibilities of county and state agencies and
22 the accountability of county and state agencies for providing behav-
23 ioral health and substance use disorder treatment.

24 “(13) Members of the Legislative Assembly appointed to the task
25 force are nonvoting members of the task force and may act in an ad-
26 visory capacity only.

27 “(14) Members of the task force who are not members of the Leg-
28 islative Assembly are not entitled to compensation or reimbursement
29 for expenses and serve as volunteers on the task force.

30 “(15) All agencies of state government, as defined in ORS 174.111,

1 are directed to assist the task force in the performance of the duties
2 of the task force and, to the extent permitted by laws relating to
3 confidentiality, to furnish information and advice the members of the
4 task force consider necessary to perform their duties.

5 **“SECTION 17. Section 16 of this 2024 Act is repealed on January 2,**
6 **2026.**

7
8 **“(Task Force on Improving the Safety**
9 **of Behavioral Health Workers)**

10
11 **“SECTION 18. (1) The Task Force on Improving the Safety of Be-**
12 **havioral Health Workers is established.**

13 **“(2) The task force consists of 16 members appointed as follows:**

14 **“(a) The President of the Senate shall appoint two members from**
15 **among members of the Senate.**

16 **“(b) The Speaker of the House of Representatives shall appoint two**
17 **members from among members of the House of Representatives.**

18 **“(c) The President and the Speaker shall jointly appoint:**

19 **“(A) Four employers of behavioral health workers including one**
20 **from county government;**

21 **“(B) Two behavioral health workers;**

22 **“(C) Two representatives of organized labor representing behavioral**
23 **health workers;**

24 **“(D) One consumer of behavioral health services; and**

25 **“(E) One representative of the state protection and advocacy system**
26 **described in ORS 192.517 (1).**

27 **“(d) The Governor shall appoint:**

28 **“(A) One member from the Governor’s staff; and**

29 **“(B) One member from the Occupational Safety and Health Division**
30 **of the Department of Consumer and Business Services.**

1 **“(3) The task force shall produce a set of recommendations for im-**
2 **proving the safety of behavioral health workers.**

3 **“(4) A majority of the voting members of the task force constitutes**
4 **a quorum for the transaction of business.**

5 **“(5) Official action by the task force requires the approval of a**
6 **majority of the voting members of the task force.**

7 **“(6) The task force shall elect one of its members to serve as**
8 **chairperson.**

9 **“(7) If there is a vacancy for any cause, the appointing authority**
10 **shall make an appointment to become immediately effective.**

11 **“(8) The task force shall meet at times and places specified by the**
12 **call of the chairperson or of a majority of the voting members of the**
13 **task force.**

14 **“(9) The task force may adopt rules necessary for the operation of**
15 **the task force.**

16 **“(10) No later than September 1, 2024, the task force shall submit**
17 **to the interim committees of the Legislative Assembly related to**
18 **health a preliminary report containing draft policy recommendations**
19 **for improving worker safety.**

20 **“(11) No later than December 1, 2024, the task force shall report the**
21 **task force’s final recommendations, in the manner provided by ORS**
22 **192.245, to the interim committees of the Legislative Assembly related**
23 **to health. The report shall also contain legislative proposals, for con-**
24 **sideration by the committees, to address the safety concerns that are**
25 **prevalent in the behavioral health industry, including but not limited**
26 **to proposals for:**

27 **“(a) Minimum structural security requirements for behavioral**
28 **health settings;**

29 **“(b) Safe staffing levels;**

30 **“(c) Standards for reporting assaults;**

- 1 “(d) Updating the safety training for workers;
- 2 “(e) Minimum requirements for training workers with respect to
- 3 workplace safety protocols;
- 4 “(f) Minimum standards for safety protocols and procedures;
- 5 “(g) Incentive-based programs and enforcement mechanisms to en-
- 6 sure compliance with all worker safety and training requirements; and
- 7 “(h) Potential funding mechanisms to pay for the requirements.

8 “(12) The Legislative Policy and Research Director shall provide

9 staff support to the task force and the Legislative Counsel shall pro-

10 vide legal support for the drafting of legislative proposals.

11 “(13) Members of the Legislative Assembly appointed to the task

12 force are nonvoting members of the task force and may act in an ad-

13 visory capacity only.

14 “(14) Members of the task force who are not members of the Leg-

15 islative Assembly or appointed by the Governor shall be paid compen-

16 sation and reimbursed for actual and necessary travel and other

17 expenses incurred by them in the performance of their official duties

18 on the task force in the manner and amounts provided for in ORS

19 292.495.

20 “(15) All agencies of state government, as defined in ORS 174.111,

21 are directed to assist the task force in the performance of the duties

22 of the task force and, to the extent permitted by laws relating to

23 confidentiality, to furnish information and advice the members of the

24 task force consider necessary to perform their duties.

25 “SECTION 19. Section 18 of this 2024 Act is repealed on January 2,

26 2026.

27

28 “(United We Heal Medicaid Payment Program)

29

30 “SECTION 20. (1) The United We Heal Medicaid Payment Program

1 is established in the Oregon Health Authority. The goal of the program
2 is to increase the available behavioral health care workforce in this
3 state. The authority shall provide supplemental medical assistance
4 payments to eligible behavioral health care providers to enable the
5 providers to access enhanced apprenticeship and training programs
6 and opportunities by participating in a labor-management training
7 trust.

8 “(2) The authority shall prescribe by rule eligibility criteria for re-
9 ceiving the payments consistent with the goal of the program ex-
10 pressed in subsection (1) of this section.

11 “(3) To participate in the program, an employer must enter into a
12 memorandum of understanding with the authority specifying how the
13 payments will be used. The authority shall terminate payments if the
14 employer fails to abide by or violates the terms of the memorandum
15 of understanding. An employer may request a contested case proceed-
16 ing to challenge a termination.

17

18 “(Conforming Amendments)

19

20 “**SECTION 21.** ORS 750.055 is amended to read:

21 “750.055. (1) The following provisions apply to health care service con-
22 tractors to the extent not inconsistent with the express provisions of ORS
23 750.005 to 750.095:

24 “(a) ORS 705.137, 705.138 and 705.139.

25 “(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385,
26 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as pro-
27 vided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509,
28 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731,
29 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

30 “(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and

1 732.517 to 732.596, not including ORS 732.582, and ORS 732.650 to 732.689.

2 “(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to
3 733.680 and 733.695 to 733.780.

4 “(e) ORS 734.014 to 734.440.

5 “(f) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to
6 742.162 and 742.518 to 742.542.

7 “(g) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.022,
8 743.023, 743.025, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to
9 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498,
10 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680
11 to 743.689, 743.788, 743.790 and 743B.221.

12 “(h) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036,
13 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060,
14 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
15 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
16 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148,
17 743A.150, 743A.160, 743A.168, 743A.169, 743A.170, 743A.175, 743A.185,
18 743A.188, 743A.190, 743A.192, 743A.250, 743A.252, 743A.260, 743A.310 and
19 743A.315 and section 2, chapter 771, Oregon Laws 2013, **and section 2 of this**
20 **2024 Act.**

21 “(i) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195,
22 743B.197, 743B.200, 743B.202, 743B.204, 743B.220, 743B.222, 743B.225, 743B.227,
23 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258,
24 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323,
25 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400,
26 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453,
27 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601, 743B.602 and
28 743B.800.

29 “(j) The following provisions of ORS chapter 744:

30 “(A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation

1 of insurance producers;

2 “(B) ORS 744.602 to 744.665, relating to the regulation of insurance con-
3 sultants; and

4 “(C) ORS 744.700 to 744.740, relating to the regulation of third party ad-
5 ministrators.

6 “(k) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605,
7 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660,
8 746.668, 746.670, 746.675, 746.680 and 746.690.

9 “(2) The following provisions of the Insurance Code apply to health care
10 service contractors except in the case of group practice health maintenance
11 organizations that are federally qualified pursuant to Title XIII of the Public
12 Health Service Act:

13 “(a) ORS 731.485, if the group practice health maintenance organization
14 wholly owns and operates an in-house drug outlet.

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

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

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

23 “(5)(a) A health care service contractor is a domestic insurance company
24 for the purpose of determining whether the health care service contractor is
25 a debtor, as defined in 11 U.S.C. 109.

26 “(b) A health care service contractor’s classification as a domestic insur-
27 ance company under paragraph (a) of this subsection does not subject the
28 health care service contractor to ORS 734.510 to 734.710.

29 “(6) The Director of the Department of Consumer and Business Services
30 may, after notice and hearing, adopt reasonable rules not inconsistent with

1 this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary
2 for the proper administration of these provisions.

3 **“SECTION 22.** ORS 750.055, as amended by section 21, chapter 771,
4 Oregon Laws 2013, section 7, chapter 25, Oregon Laws 2014, section 82,
5 chapter 45, Oregon Laws 2014, section 9, chapter 59, Oregon Laws 2015, sec-
6 tion 7, chapter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws
7 2015, section 11, chapter 362, Oregon Laws 2015, section 10, chapter 470,
8 Oregon Laws 2015, section 30, chapter 515, Oregon Laws 2015, section 10,
9 chapter 206, Oregon Laws 2017, section 6, chapter 417, Oregon Laws 2017,
10 section 22, chapter 479, Oregon Laws 2017, section 10, chapter 7, Oregon
11 Laws 2018, section 69, chapter 13, Oregon Laws 2019, section 38, chapter 151,
12 Oregon Laws 2019, section 5, chapter 441, Oregon Laws 2019, section 85,
13 chapter 97, Oregon Laws 2021, section 12, chapter 37, Oregon Laws 2022,
14 section 5, chapter 111, Oregon Laws 2023, and section 2, chapter 152, Oregon
15 Laws 2023, is amended to read:

16 “750.055. (1) The following provisions apply to health care service con-
17 tractors to the extent not inconsistent with the express provisions of ORS
18 750.005 to 750.095:

19 “(a) ORS 705.137, 705.138 and 705.139.

20 “(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385,
21 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as pro-
22 vided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509,
23 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731,
24 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

25 “(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and
26 732.517 to 732.596, not including ORS 732.582, and ORS 732.650 to 732.689.

27 “(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to
28 733.680 and 733.695 to 733.780.

29 “(e) ORS 734.014 to 734.440.

30 “(f) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to

1 742.162 and 742.518 to 742.542.

2 “(g) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.022,
3 743.023, 743.025, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to
4 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498,
5 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680
6 to 743.689, 743.788, 743.790 and 743B.221.

7 “(h) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036,
8 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060,
9 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
10 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
11 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148,
12 743A.150, 743A.160, 743A.168, 743A.169, 743A.170, 743A.175, 743A.185,
13 743A.188, 743A.190, 743A.192, 743A.250, 743A.252, 743A.260, 743A.310 and
14 **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,
16 743B.197, 743B.200, 743B.202, 743B.204, 743B.220, 743B.222, 743B.225, 743B.227,
17 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258,
18 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323,
19 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400,
20 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453,
21 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601, 743B.602 and
22 743B.800.

23 “(j) The following provisions of ORS chapter 744:

24 “(A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation
25 of insurance producers;

26 “(B) ORS 744.602 to 744.665, relating to the regulation of insurance con-
27 sultants; and

28 “(C) ORS 744.700 to 744.740, relating to the regulation of third party ad-
29 ministrators.

30 “(k) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605,

1 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660,
2 746.668, 746.670, 746.675, 746.680 and 746.690.

3 “(2) The following provisions of the Insurance Code apply to health care
4 service contractors except in the case of group practice health maintenance
5 organizations that are federally qualified pursuant to Title XIII of the Public
6 Health Service Act:

7 “(a) ORS 731.485, if the group practice health maintenance organization
8 wholly owns and operates an in-house drug outlet.

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

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

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

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

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

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

27 **“SECTION 23.** ORS 750.333 is amended to read:

28 “750.333. (1) The following provisions apply to trusts carrying out a mul-
29 tiple employer welfare arrangement:

30 “(a) ORS 705.137, 705.138 and 705.139.

1 “(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316,
2 731.324, 731.328, 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414,
3 731.418 to 731.434, 731.454, 731.484, 731.486, 731.488, 731.512, 731.574 to 731.620,
4 731.640 to 731.652, 731.804, 731.808 and 731.844 to 731.992.

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

7 “(d) ORS 734.014 to 734.440.

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

9 “(f) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.023,
10 743.028, 743.029, 743.053, 743.405, 743.406, 743.524, 743.526, 743.535 and
11 743B.221.

12 “(g) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.024, 743A.034,
13 743A.036, 743A.040, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060,
14 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
15 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
16 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148,
17 743A.150, 743A.160, 743A.168, 743A.169, 743A.170, 743A.175, 743A.180,
18 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252, 743A.260 and
19 **743A.310 and section 2 of this 2024 Act.**

20 “(h) ORS 743B.001, 743B.003 to 743B.127 (except 743B.125 to 743B.127),
21 743B.195, 743B.197, 743B.200, 743B.202, 743B.204, 743B.220, 743B.222, 743B.225,
22 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257,
23 743B.258, 743B.310, 743B.320, 743B.321, 743B.330, 743B.340, 743B.341, 743B.342,
24 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
26 743B.601.

27 “(i) The following provisions of ORS chapter 744:

28 “(A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation
29 of insurance producers;

30 “(B) ORS 744.602 to 744.665, relating to the regulation of insurance con-

1 sultants; and

2 “(C) ORS 744.700 to 744.740, relating to the regulation of third party ad-
3 ministrators.

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

5 “(2) For the purposes of this section:

6 “(a) A trust carrying out a multiple employer welfare arrangement is an
7 insurer.

8 “(b) References to certificates of authority are references to certificates
9 of multiple employer welfare arrangement.

10 “(c) Contributions are premiums.

11 “(3) The provision of health benefits under ORS 750.301 to 750.341 is the
12 transaction of health insurance.

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

15

16 **“DELIVERY OF CONTROLLED SUBSTANCES**

17 **“(Delivery Definition Based on State v. Boyd)**

18

19 **“SECTION 24.** ORS 475.005 is amended to read:

20 “475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless
21 the context requires otherwise:

22 “(1) ‘Abuse’ means the repetitive excessive use of a drug short of de-
23 pendence, without legal or medical supervision, which may have a detri-
24 mental effect on the individual or society.

25 “(2) ‘Administer’ means the direct application of a controlled substance,
26 whether by injection, inhalation, ingestion or any other means, to the body
27 of a patient or research subject by:

28 “(a) A practitioner or an authorized agent thereof; or

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

30 “(3) ‘Administration’ means the Drug Enforcement Administration of the

1 United States Department of Justice, or its successor agency.

2 “(4) ‘Agent’ means an authorized person who acts on behalf of or at the
3 direction of a manufacturer, distributor or dispenser. It does not include a
4 common or contract carrier, public warehouseman or employee of the carrier
5 or warehouseman.

6 “(5) ‘Board’ means the State Board of Pharmacy.

7 “(6) ‘Controlled substance’:

8 “(a) Means a drug or its immediate precursor classified in Schedules I
9 through V under the federal Controlled Substances Act, 21 U.S.C. 811 to 812,
10 as modified under ORS 475.035. The use of the term ‘precursor’ in this para-
11 graph does not control and is not controlled by the use of the term
12 ‘precursor’ in ORS 475.752 to 475.980.

13 “(b) Does not include:

14 “(A) The plant Cannabis family Cannabaceae;

15 “(B) Any part of the plant Cannabis family Cannabaceae, whether grow-
16 ing or not;

17 “(C) Resin extracted from any part of the plant Cannabis family
18 Cannabaceae;

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

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

22 “(F) Psilocybin or psilocin, but only if and to the extent that a person
23 manufactures, delivers, or possesses psilocybin, psilocin, or psilocybin pro-
24 ducts in accordance with the provisions of ORS 475A.210 to 475A.722 and
25 rules adopted under ORS 475A.210 to 475A.722.

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

1 “(8) ‘Deliver’ or ‘delivery’ means the actual, constructive or attempted
2 transfer **of, or possession with the intent to transfer**, other than by ad-
3 ministering or dispensing, from one person to another, [of] a controlled sub-
4 stance, whether or not there is an agency relationship.

5 “(9) ‘Device’ means instruments, apparatus or contrivances, including
6 their components, parts or accessories, intended:

7 “(a) For use in the diagnosis, cure, mitigation, treatment or prevention
8 of disease in humans or animals; or

9 “(b) To affect the structure of any function of the body of humans or
10 animals.

11 “(10) ‘Dispense’ means to deliver a controlled substance to an ultimate
12 user or research subject by or pursuant to the lawful order of a practitioner,
13 and includes the prescribing, administering, packaging, labeling or com-
14 pounding necessary to prepare the substance for that delivery.

15 “(11) ‘Dispenser’ means a practitioner who dispenses.

16 “(12) ‘Distributor’ means a person who delivers.

17 “(13) ‘Drug’ means:

18 “(a) Substances recognized as drugs in the official United States
19 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or
20 official National Formulary, or any supplement to any of them;

21 “(b) Substances intended for use in the diagnosis, cure, mitigation, treat-
22 ment or prevention of disease in humans or animals;

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

25 “(d) Substances intended for use as a component of any article specified
26 in paragraph (a), (b) or (c) of this subsection; however, the term does not
27 include devices or their components, parts or accessories.

28 “(14) ‘Electronically transmitted’ or ‘electronic transmission’ means a
29 communication sent or received through technological apparatuses, including
30 computer terminals or other equipment or mechanisms linked by telephone

1 or microwave relays, or any similar apparatus having electrical, digital,
2 magnetic, wireless, optical, electromagnetic or similar capabilities.

3 “(15) ‘Manufacture’ means the production, preparation, propagation, com-
4 pounding, conversion or processing of a controlled substance, either directly
5 or indirectly by extraction from substances of natural origin, or independ-
6 ently by means of chemical synthesis, or by a combination of extraction and
7 chemical synthesis, and includes any packaging or repackaging of the sub-
8 stance or labeling or relabeling of its container, except that this term does
9 not include the preparation or compounding of a controlled substance:

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

12 “(b) By a practitioner, or by an authorized agent under the practitioner’s
13 supervision, for the purpose of, or as an incident to, research, teaching or
14 chemical analysis and not for sale.

15 “(16) ‘Person’ includes a government subdivision or agency, business trust,
16 estate, trust or any other legal entity.

17 “(17) ‘Practitioner’ means physician, dentist, veterinarian, scientific in-
18 vestigator, licensed nurse practitioner, physician assistant or other person
19 licensed, registered or otherwise permitted by law to dispense, conduct re-
20 search with respect to or to administer a controlled substance in the course
21 of professional practice or research in this state but does not include a
22 pharmacist or a pharmacy.

23 “(18) ‘Prescription’ means a written, oral or electronically transmitted
24 direction, given by a practitioner for the preparation and use of a drug.
25 When the context requires, ‘prescription’ also means the drug prepared under
26 such written, oral or electronically transmitted direction. Any label affixed
27 to a drug prepared under written, oral or electronically transmitted direction
28 shall prominently display a warning that the removal thereof is prohibited
29 by law.

30 “(19) ‘Production’ includes the manufacture, planting, cultivation, grow-

1 ing or harvesting of a controlled substance.

2 “(20) ‘Research’ means an activity conducted by the person registered
3 with the federal Drug Enforcement Administration pursuant to a protocol
4 approved by the United States Food and Drug Administration.

5 “(21) ‘Ultimate user’ means a person who lawfully possesses a controlled
6 substance for the use of the person or for the use of a member of the
7 household of the person or for administering to an animal owned by the
8 person or by a member of the household of the person.

9 “(22) ‘Usable quantity’ means:

10 “(a) An amount of a controlled substance that is sufficient to physically
11 weigh independent of its packaging and that does not fall below the uncer-
12 tainty of the measuring scale; or

13 “(b) An amount of a controlled substance that has not been deemed
14 unweighable, as determined by a Department of State Police forensic labo-
15 ratory, due to the circumstances of the controlled substance.

16 “(23) ‘**Within 30 feet,**’ ‘**within 500 feet**’ and ‘within 1,000 feet’ [*means*]
17 **mean** a straight line measurement in a radius extending for [*1,000*] **the**
18 **specified number of** feet or less in every direction from a specified location
19 or from any point on the boundary line of a specified unit of property.

20

21 “**(Delivery in Certain Locations)**

22

23 “**SECTION 25.** ORS 475.900 is amended to read:

24 “475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or
25 475.906 shall be classified as crime category 8 of the sentencing guidelines
26 grid of the Oregon Criminal Justice Commission if:

27 “(a) The violation constitutes delivery or manufacture of a controlled
28 substance and involves substantial quantities of a controlled substance. For
29 purposes of this paragraph, the following amounts constitute substantial
30 quantities of the following controlled substances:

1 “(A) Five grams or more of a mixture or substance containing a detect-
2 able amount of heroin;

3 “(B) Five grams or more or 25 or more user units of a mixture or sub-
4 stance containing a detectable amount of fentanyl, or any substituted deriv-
5 ative of fentanyl as defined by the rules of the State Board of Pharmacy;

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

8 “(D) Ten grams or more of a mixture or substance containing a detectable
9 amount of methamphetamine, its salts, isomers or salts of its isomers;

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

12 “(F) Sixty grams or more of a mixture or substance containing a detect-
13 able amount of psilocybin or psilocin; or

14 “(G) Five grams or more or 25 or more pills, tablets or capsules of a
15 mixture or substance containing a detectable amount of:

16 “(i) 3,4-methylenedioxyamphetamine;

17 “(ii) 3,4-methylenedioxymethamphetamine; or

18 “(iii) 3,4-methylenedioxy-N-ethylamphetamine.

19 “(b) The violation constitutes possession, delivery or manufacture of a
20 controlled substance and the possession, delivery or manufacture is a com-
21 mercial drug offense. A possession, delivery or manufacture is a commercial
22 drug offense for purposes of this subsection if it is accompanied by at least
23 three of the following factors:

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

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

27 “(C) The offender was unlawfully in possession of a firearm or other
28 weapon as described in ORS 166.270 (2), or the offender used, attempted to
29 use or threatened to use a deadly or dangerous weapon as defined in ORS
30 161.015, or the offender was in possession of a firearm or other deadly or

1 dangerous weapon as defined in ORS 161.015 for the purpose of using it in
2 connection with a controlled substance offense;

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

7 “(E) The offender was in possession of drug transaction records or cus-
8 tomer lists;

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

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

12 “(H) The offender was in possession of manufacturing paraphernalia, in-
13 cluding recipes, precursor chemicals, laboratory equipment, lighting, venti-
14 lating or power generating equipment;

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

17 “(J) The offender had constructed fortifications or had taken security
18 measures with the potential of injuring persons; or

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

21 “(i) Three grams or more of a mixture or substance containing a detect-
22 able amount of heroin;

23 “(ii) Three grams or more or 15 or more user units of a mixture or sub-
24 stance containing a detectable amount of fentanyl, or any substituted deriv-
25 ative of fentanyl as defined by the rules of the State Board of Pharmacy;

26 “(iii) Eight grams or more of a mixture or substance containing a de-
27 tectable amount of cocaine;

28 “(iv) Eight grams or more of a mixture or substance containing a detect-
29 able amount of methamphetamine;

30 “(v) Twenty or more user units of a mixture or substance containing a

1 detectable amount of lysergic acid diethylamide;

2 “(vi) Ten grams or more of a mixture or substance containing a detectable
3 amount of psilocybin or psilocin; or

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

6 “(I) 3,4-methylenedioxyamphetamine;

7 “(II) 3,4-methylenedioxymethamphetamine; or

8 “(III) 3,4-methylenedioxy-N-ethylamphetamine.

9 “(c) The violation constitutes a violation of ORS 475.848, 475.852, 475.868,
10 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

11 “(d) The violation constitutes manufacturing methamphetamine and the
12 manufacturing consists of:

13 “(A) A chemical reaction involving one or more precursor substances for
14 the purpose of manufacturing methamphetamine; or

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

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

19 “**(2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified**
20 **as crime category 7 of the sentencing guidelines grid of the Oregon**
21 **Criminal Justice Commission if the violation constitutes delivery for**
22 **consideration of heroin, cocaine, fentanyl, methamphetamine or**
23 **3,4-methylenedioxyamphetamine,**
24 **3,4-methylenedioxymethamphetamine or**
25 **3,4-methylenedioxy-N-ethylamphetamine and:**

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

29 “**(b) The person knows, or reasonably should have known, that the**
30 **delivery is occurring within 500 feet of the real property comprising a**

1 **temporary residence shelter; or**

2 **“(c) The delivery occurs within 30 feet of the real property com-**
3 **prising a public park.**

4 “[2)] (3) A violation of ORS 475.752 or 475.806 to 475.894 shall be classi-
5 fied as crime category 6 of the sentencing guidelines grid of the Oregon
6 Criminal Justice Commission if:

7 “(a) The violation constitutes delivery of heroin, cocaine, fentanyl, meth-
8 amphetamine or 3,4-methylenedioxyamphetamine,
9 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
12 controlled substance. For purposes of this paragraph, the following amounts
13 constitute substantial quantities of the following controlled substances:

14 “(A) Five grams or more of a mixture or substance containing a detect-
15 able amount of heroin;

16 “(B) Five grams or more or 25 or more user units of a mixture or sub-
17 stance containing a detectable amount of fentanyl, or any substituted deriv-
18 ative of fentanyl as defined by the rules of the State Board of Pharmacy;

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

21 “(D) Ten grams or more of a mixture or substance containing a detectable
22 amount of methamphetamine;

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

25 “(F) Sixty grams or more of a mixture or substance containing a detect-
26 able amount of psilocybin or psilocin; or

27 “(G) Five grams or more or 25 or more pills, tablets or capsules of a
28 mixture or substance containing a detectable amount of:

29 “(i) 3,4-methylenedioxyamphetamine;

30 “(ii) 3,4-methylenedioxymethamphetamine; or

1 “(iii) 3,4-methylenedioxy-N-ethylamphetamine.

2 “(4) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified
3 as crime category 5 of the sentencing guidelines grid of the Oregon
4 Criminal Justice Commission if the violation constitutes delivery of
5 heroin, cocaine, fentanyl, methamphetamine or
6 3,4-methylenedioxyamphetamine,
7 3,4-methylenedioxymethamphetamine or
8 3,4-methylenedioxy-N-ethylamphetamine and:

9 “(a) The person knows, or reasonably should have known, that the
10 delivery is occurring within 500 feet of the real property comprising a
11 treatment facility;

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

15 “(c) The delivery occurs within 30 feet of the real property com-
16 prising a public park.

17 “[3] (5) Any felony violation of ORS 475.752 or 475.806 to 475.894 not
18 contained in [subsection (1) or (2)] subsections (1) to (4) of this section shall
19 be classified as crime category 4 of the sentencing guidelines grid of the
20 Oregon Criminal Justice Commission if the violation involves delivery or
21 manufacture of a controlled substance.

22 “[4] (6) In order to prove a commercial drug offense, the state shall
23 plead in the accusatory instrument sufficient factors of a commercial drug
24 offense under [subsections (1) and (2)] subsection (1) of this section. The
25 state has the burden of proving each factor beyond a reasonable doubt.

26 “[5] (7) As used in this section[,]:

27 “(a) ‘Mixture or substance’ means any mixture or substance, whether or
28 not the mixture or substance is in an ingestible or marketable form at the
29 time of the offense.

30 “(b) ‘Public park’ means a park operated by the state, a county, a

1 city or a park and recreation district.

2 “(c) ‘Temporary residence shelter’ means a building that provides
3 shelter on a temporary basis for individuals and families who lack
4 permanent housing.

5 “(d) ‘Treatment facility’ has the meaning given that term in ORS
6 430.306.

7

8 “(Reevaluation of Release Guidelines)

9

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

16 “SECTION 27. Section 26 of this 2024 Act is repealed on January 2,
17 2025.

18

19 “(Conforming Amendments)

20

21 “SECTION 28. ORS 475.752 is amended to read:

22 “475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752
23 to 475.980, it is unlawful for any person to manufacture or deliver a con-
24 trolled substance. Any person who violates this subsection with respect to:

25 “(a) A controlled substance in Schedule I, is guilty of a Class A felony,
26 except as otherwise provided in ORS 475.886 and 475.890.

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

30 “(c) A controlled substance in Schedule III, is guilty of a Class C felony,

1 except as otherwise provided in ORS 475.904 and 475.906.

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

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

6 “(2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980,
7 it is unlawful for any person to create or deliver a counterfeit substance.

8 Any person who violates this subsection with respect to:

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

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

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

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

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

16 “(3) It is unlawful for any person knowingly or intentionally to possess
17 a controlled substance unless the substance was obtained directly from, or
18 pursuant to a valid prescription or order of, a practitioner while acting in
19 the course of professional practice, or except as otherwise authorized by ORS
20 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this sub-
21 section with respect to:

22 “(a) A controlled substance in Schedule I, is guilty of a Class E violation,
23 except as otherwise provided in ORS 475.854, 475.874 and 475.894 and sub-
24 section (7) of this section.

25 “(b) A controlled substance in Schedule II, is guilty of a Class E vio-
26 lation, except as otherwise provided in ORS 475.814, 475.824, 475.834 or
27 475.884 or subsection (8) of this section.

28 “(c) A controlled substance in Schedule III, is guilty of a Class E vio-
29 lation.

30 “(d) A controlled substance in Schedule IV, is guilty of a Class E vio-

1 lation.

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

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

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

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

9 “(c) In a manner that is not dangerous to the health of the user or others
10 who are in the proximity of the user.

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

14 “(6)(a) Notwithstanding subsection (1) of this section, a person who un-
15 lawfully manufactures or delivers a controlled substance in Schedule IV and
16 who thereby causes death to another person is guilty of a Class C felony.

17 “(b) For purposes of this subsection, causation is established when the
18 controlled substance plays a substantial role in the death of the other per-
19 son.

20 “(7) Notwithstanding subsection (3)(a) of this section:

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

23 “(A) Forty or more user units of a mixture or substance containing a de-
24 tectable amount of lysergic acid diethylamide; or

25 “(B) Twelve grams or more of a mixture or substance containing a de-
26 tectable amount of psilocybin or psilocin.

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

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

30 or

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

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

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

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

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

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

15 **“SECTION 29.** ORS 475.854 is amended to read:

16 “475.854. (1) It is unlawful for any person knowingly or intentionally to
17 possess heroin.

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

19 “(b) Notwithstanding paragraph (a) of this subsection, unlawful pos-
20 session of heroin is a Class A misdemeanor if the person possesses one gram
21 or more of a mixture or substance containing a detectable amount of heroin.

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

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

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

28 **“SECTION 30.** ORS 475.874 is amended to read:

29 “475.874. (1) It is unlawful for any person knowingly or intentionally to
30 possess 3,4-methylenedioxymethamphetamine.

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

3 “(b) Notwithstanding paragraph (a) of this subsection, unlawful pos-
4 session of 3,4-methylenedioxyamphetamine is a Class A misdemeanor if
5 the person possesses one gram or more or five or more pills, tablets or cap-
6 sules of a mixture or substance containing a detectable amount of:

7 “(A) 3,4-methylenedioxyamphetamine;

8 “(B) 3,4-methylenedioxyamphetamine; or

9 “(C) 3,4-methylenedioxy-N-ethylamphetamine.

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

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

13 or

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

16 **“SECTION 31.** ORS 475.884 is amended to read:

17 “475.884. (1) It is unlawful for any person knowingly or intentionally to
18 possess cocaine unless the substance was obtained directly from, or pursuant
19 to[,] a valid prescription or order of, a practitioner while acting in the
20 course of professional practice, or except as otherwise authorized by ORS
21 475.005 to 475.285 and 475.752 to 475.980.

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

23 “(b) Notwithstanding paragraph (a) of this subsection, unlawful pos-
24 session of cocaine is a Class A misdemeanor if the person possesses two
25 grams or more of a mixture or substance containing a detectable amount of
26 cocaine.

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

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

30 or

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

3 **“SECTION 32.** ORS 475.894 is amended to read:

4 “475.894. (1) It is unlawful for any person knowingly or intentionally to
5 possess methamphetamine unless the substance was obtained directly from,
6 or pursuant to, a valid prescription or order of a practitioner while acting
7 in the course of professional practice, or except as otherwise authorized by
8 ORS 475.005 to 475.285 and 475.752 to 475.980.

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

10 “(b) Notwithstanding paragraph (a) of this subsection, unlawful pos-
11 session of methamphetamine is a Class A misdemeanor if the person pos-
12 sesses two grams or more of a mixture or substance containing a detectable
13 amount of methamphetamine.

14 “(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful
15 possession of methamphetamine is a Class C felony if:

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

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

20

21 **“(Applicability)**

22

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

27

28 **“POSSESSION OF CONTROLLED SUBSTANCES**

29 **“(Drug Enforcement Misdemeanor Provisions)**

30

1 **“SECTION 34. Section 35 of this 2024 Act is added to and made a**
2 **part of ORS 475.752 to 475.980.**

3 **“SECTION 35. (1) Unlawful possession of a controlled substance**
4 **constituting a drug enforcement misdemeanor under ORS 475.752**
5 **(3)(a), (b), (c) or (d), 475.814 (2)(a), 475.824 (2)(a), 475.834 (2)(a), 475.854**
6 **(2)(a), 475.874 (2)(a), 475.884 (2)(a) or 475.894 (2)(a) is punishable as de-**
7 **scribed in this section.**

8 **“(2)(a) When imposing a sentence for the crime described in this**
9 **section:**

10 **“(A) The court may decide to not suspend the imposition or exe-**
11 **cution of any part of the sentence, and impose a term of incarceration**
12 **in accordance with ORS 137.010 (7) of up to 180 days, only upon the**
13 **request of the defendant.**

14 **“(B) If the defendant has not requested to be sentenced under sub-**
15 **paragraph (A) of this paragraph, or if the court has decided not to**
16 **sentence the defendant under subparagraph (A) of this paragraph, the**
17 **court shall suspend the imposition of any sentence of incarceration**
18 **and, notwithstanding ORS 137.010 (4), impose a sentence of probation**
19 **of a definite period of up to 18 months.**

20 **“(b) When imposing a sentence of probation under this section, the**
21 **court may not order as a condition of probation that the defendant**
22 **serve a sentence of incarceration or confinement in the county jail.**

23 **“(c) Notwithstanding ORS 135.050, 137.010 (7), 161.635 and 161.665, the**
24 **court may not include in the judgment of conviction for the crime**
25 **described in this section a requirement that the defendant pay a fine,**
26 **cost, assessment or attorney fee.**

27 **“(d) ORS 137.540 (2)(a) does not apply to sentences imposed under**
28 **this section.**

29 **“(3)(a) Structured, intermediate sanctions as described in ORS**
30 **137.593 may be imposed in accordance with rules adopted under ORS**

1 **137.595** when a condition of a term of probation imposed under this
2 section has been violated.

3 **“(b) Upon a finding that the person on probation has violated a**
4 **condition of probation imposed under this section, the court may or-**
5 **der, as a sanction, up to a total of 30 days in jail. Any term of in-**
6 **carceration imposed as a sanction must allow for early release to a**
7 **treatment facility.**

8 **“(c) The court may extend the length of a probation sentence im-**
9 **posed under this section if the person on probation consents to the**
10 **extension.**

11 **“(4)(a) Notwithstanding ORS 137.545 (5)(a)(B) and 137.593, upon the**
12 **court’s revocation of a sentence of probation imposed under this sec-**
13 **tion, the court may impose as a revocation sentence up to 180 days’**
14 **incarceration. For any sentence of incarceration imposed under this**
15 **paragraph, the court shall authorize early release to an inpatient or**
16 **outpatient drug and alcohol treatment program as described in para-**
17 **graph (b) of this subsection.**

18 **“(b) Upon imposing a revocation sentence of incarceration under**
19 **this subsection, the court shall commit the person to the custody of**
20 **the supervisory authority under ORS 137.124. The county community**
21 **corrections agency shall monitor when an inpatient or outpatient drug**
22 **and alcohol treatment program becomes available for the person and**
23 **shall notify the person when a program is available. In order to be**
24 **released early to the program, the person must enter into a release**
25 **agreement subject to such conditions as determined by the county**
26 **community corrections agency. If the person violates the terms of the**
27 **release agreement, the county community corrections agency may**
28 **cause the person to return to jail to serve the remainder of the in-**
29 **carceration sentence originally imposed.**

30 **“(c) When a person has been released to an inpatient or outpatient**

1 drug and alcohol treatment program under paragraph (b) of this sub-
2 section, each day that the person is in the community and subject to
3 the release agreement shall count toward the total term of incarcer-
4 ation imposed as a revocation sentence.

5 “(d) When imposing a revocation sentence of incarceration under
6 this section, the court shall order, and may not deny, that the person
7 receive credit for time served for any day that the person was previ-
8 ously incarcerated on the charge.

9

10 “(Deflection Programs)

11

12 “SECTION 36. (1) Law enforcement agencies in this state are en-
13 couraged to, in lieu of citation or arrest, or after citation or arrest but
14 before referral to the district attorney, refer a person to a deflection
15 program as defined in section 37 of this 2024 Act when the person is
16 suspected of committing, or has been cited or arrested for, unlawful
17 possession of a controlled substance constituting a drug enforcement
18 misdemeanor under section 35 of this 2024 Act.

19 “(2) District attorneys in this state are encouraged to divert for
20 assessment, treatment and other services, in lieu of conviction, cases
21 involving unlawful possession of a controlled substance constituting a
22 drug enforcement misdemeanor under section 35 of this 2024 Act.

23 “SECTION 37. (1) The Oregon Criminal Justice Commission shall
24 establish a statewide system for tracking simple, clear and meaningful
25 data concerning deflection program outcomes, including connections
26 to social services and criminal justice system avoidance, and other
27 data deemed relevant that is timely and easily accessed to inform best
28 practices and improve outcomes for individual program participants.

29 “(2)(a) No later than 12 months after the effective date of this 2024
30 Act, the commission shall conduct a study to determine best practices

1 for deflection programs and make recommendations for funding of the
2 Oregon Behavioral Health Deflection Program described in section 76
3 of this 2024 Act. In making the recommendations described in this
4 paragraph, the commission shall consider the best available informa-
5 tion and projections regarding deflection programs in this state.

6 “(b) No later than 18 months after the effective date of this 2024
7 Act, the commission shall develop standards and best practices for
8 deflection programs in this state based on information received from
9 the programs and pursuant to sections 76 and 77 of this 2024 Act.

10 “(3) The commission shall maintain a list of deflection programs
11 operating within this state, and shall make the list publicly available
12 on the website of the commission.

13 “(4) As used in this section, ‘deflection program’ means a
14 collaborative program between law enforcement agencies and behav-
15 ioral health entities that assists individuals who may have substance
16 use disorder, another behavioral health disorder or co-occurring dis-
17 orders, to create community-based pathways to treatment, recovery
18 support services, housing, case management or other services.

19 **“SECTION 38.** ORS 133.060 is amended to read:

20 “133.060. (1) **Except as provided in subsections (3) and (4) of this**
21 **section,** a person who has been served with a criminal citation shall appear
22 before a magistrate of the county in which the person was cited at the time,
23 date and court specified in the citation, which shall not be later than 30 days
24 after the date the citation was issued.

25 “(2) If the cited person fails to appear at the time, date and court specified
26 in the criminal citation, and a complaint or information is filed, the
27 magistrate shall issue a warrant of arrest, upon application for its issuance,
28 upon the person’s failure to appear.

29 “(3)(a) Notwithstanding subsection (1) of this section, during a period of
30 statewide emergency, the date specified in a criminal citation on which a

1 person served with the citation shall appear may be more than 30 days after
2 the date the citation was issued.

3 “(b) During a period of statewide emergency, the presiding judge of a
4 circuit court may, upon the motion of a party or the court’s own motion, and
5 upon a finding of good cause, postpone the date of appearance described in
6 paragraph (a) of this subsection for all proceedings within the jurisdiction
7 of the court.

8 “(c) The presiding judge may delegate the authority described in para-
9 graph (b) of this subsection to another judge of the court.

10 “(d) Nothing in this subsection affects the rights of a defendant under the
11 Oregon and United States Constitutions.

12 “(e) As used in this subsection, ‘period of statewide emergency’ means the
13 period of time during which any declaration of a state of emergency under
14 ORS 401.165, public health emergency under ORS 433.441 or catastrophic
15 disaster under Article X-A, section 1, of the Oregon Constitution, issued by
16 the Governor, and any extension of the declaration, is in effect, and contin-
17 uing for 60 days after the declaration and any extension is no longer in ef-
18 fect.

19 **“(4) Notwithstanding subsection (1) of this section, the date speci-**
20 **fied in a criminal citation on which a person served with the citation**
21 **shall appear may be more than 30 days after the date the citation was**
22 **issued for purposes of allowing the person to participate in a deflection**
23 **program as defined in section 37 of this 2024 Act.**

24

25 **“(Drug Enforcement Misdemeanor Conforming Amendments)**

26

27 **“SECTION 39.** ORS 475.752, as amended by section 28 of this 2024 Act,
28 is amended to read:

29 “475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752
30 to 475.980, it is unlawful for any person to manufacture or deliver a con-

1 trolled substance. Any person who violates this subsection with respect to:

2 “(a) A controlled substance in Schedule I, is guilty of a Class A felony,
3 except as otherwise provided in ORS 475.886 and 475.890.

4 “(b) A controlled substance in Schedule II, is guilty of a Class B felony,
5 except as otherwise provided in ORS 475.878, 475.880, 475.882, 475.904 and
6 475.906.

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

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

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

13 “(2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980,
14 it is unlawful for any person to create or deliver a counterfeit substance.
15 Any person who violates this subsection with 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
20 misdemeanor.

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

23 “(3) It is unlawful for any person knowingly or intentionally to possess
24 a controlled substance unless the substance was obtained directly from, or
25 pursuant to a valid prescription or order of, a practitioner while acting in
26 the course of professional practice, or except as otherwise authorized by ORS
27 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this sub-
28 section with respect to:

29 “(a) A controlled substance in Schedule I, is guilty of a [*Class E*
30 *violation*] **drug enforcement misdemeanor punishable as described in**

1 **section 35 of this 2024 Act**, except as otherwise provided in ORS 475.854,
2 475.874 and 475.894 and subsection (7) of this section.

3 “(b) A controlled substance in Schedule II, is guilty of a [*Class E*
4 *violation*] **drug enforcement misdemeanor punishable as described in**
5 **section 35 of this 2024 Act**, except as otherwise provided in ORS 475.814,
6 475.824, 475.834 or 475.884 or subsection (8) of this section.

7 “(c) A controlled substance in Schedule III, is guilty of a [*Class E vio-*
8 *lation*] **drug enforcement misdemeanor punishable as described in sec-**
9 **tion 35 of this 2024 Act**.

10 “(d) A controlled substance in Schedule IV, is guilty of a [*Class E vio-*
11 *lation*] **drug enforcement misdemeanor punishable as described in sec-**
12 **tion 35 of this 2024 Act**.

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

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

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

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

20 “(c) In a manner that is not dangerous to the health of the user or others
21 who are in the proximity of the user.

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

25 “(6)(a) Notwithstanding subsection (1) of this section, a person who un-
26 lawfully manufactures or delivers a controlled substance in Schedule IV and
27 who thereby causes death to another person is guilty of a Class C felony.

28 “(b) For purposes of this subsection, causation is established when the
29 controlled substance plays a substantial role in the death of the other per-
30 son.

1 “(7) Notwithstanding subsection (3)(a) of this section:

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

4 “(A) Forty or more user units of a mixture or substance containing a de-
5 tectable amount of lysergic acid diethylamide; or

6 “(B) Twelve grams or more of a mixture or substance containing a de-
7 tectable amount of psilocybin or psilocin.

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

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

12 “(B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

13 “(8) Notwithstanding subsection (3)(b) of this section:

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

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

21 “(A) The possession is a commercial drug offense under ORS 475.900 (1)(b);
22 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
26 possess hydrocodone unless the hydrocodone was obtained directly from, or
27 pursuant to a valid prescription or order of, a practitioner while acting in
28 the course of professional practice, or except as otherwise authorized by ORS
29 475.005 to 475.285 and 475.752 to 475.980.

30 “(2)(a) Unlawful possession of hydrocodone is a [*Class E violation*] **drug**

1 **enforcement misdemeanor punishable as described in section 35 of this**
2 **2024 Act.**

3 “(b) Notwithstanding paragraph (a) of this subsection, unlawful pos-
4 session of hydrocodone is a Class A misdemeanor if:

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

7 “(B) The person possesses 40 or more pills, tablets, capsules or user units
8 of a mixture or substance containing a detectable amount of hydrocodone.

9 **“SECTION 41.** ORS 475.824 is amended to read:

10 “475.824. (1) It is unlawful for any person knowingly or intentionally to
11 possess methadone unless the methadone was obtained directly from, or
12 pursuant to a valid prescription or order of, a practitioner while acting in
13 the course of professional practice, or except as otherwise authorized by ORS
14 475.005 to 475.285 and 475.752 to 475.980.

15 “(2)(a) Unlawful possession of methadone is a [*Class E violation*] **drug**
16 **enforcement misdemeanor punishable as described in section 35 of this**
17 **2024 Act.**

18 “(b) Notwithstanding paragraph (a) of this subsection, unlawful pos-
19 session of methadone is a Class A misdemeanor if the person possesses 40
20 or more user units of a mixture or substance containing a detectable amount
21 of methadone.

22 “(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful
23 possession of methadone is a Class C felony if the possession is a commercial
24 drug offense under ORS 475.900 (1)(b).

25 **“SECTION 42.** ORS 475.834 is amended to read:

26 “475.834. (1) It is unlawful for any person knowingly or intentionally to
27 possess oxycodone unless the oxycodone was obtained directly from, or pur-
28 suant to a valid prescription or order of, a practitioner while acting in the
29 course of professional practice, or except as otherwise authorized by ORS
30 475.005 to 475.285 and 475.752 to 475.980.

1 “(2)(a) Unlawful possession of oxycodone is a [*Class E violation*] **drug**
2 **enforcement misdemeanor punishable as described in section 35 of this**
3 **2024 Act.**

4 “(b) Notwithstanding paragraph (a) of this subsection, unlawful pos-
5 session of oxycodone is a Class A misdemeanor if the person possesses 40 or
6 more pills, tablets, capsules or user units of a mixture or substance con-
7 taining a detectable amount of oxycodone.

8 “(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful
9 possession of oxycodone is a Class C felony if the possession is a commercial
10 drug offense under ORS 475.900 (1)(b).

11 **“SECTION 43.** ORS 475.854, as amended by section 29 of this 2024 Act,
12 is amended to read:

13 “475.854. (1) It is unlawful for any person knowingly or intentionally to
14 possess heroin.

15 “(2)(a) Unlawful possession of heroin is a [*Class E violation*] **drug**
16 **enforcement misdemeanor punishable as described in section 35 of this**
17 **2024 Act.**

18 “(b) Notwithstanding paragraph (a) of this subsection, unlawful pos-
19 session of heroin is a Class A misdemeanor if the person possesses one gram
20 or more of a mixture or substance containing a detectable amount of heroin.

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

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

24 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,
27 is amended to read:

28 “475.874. (1) It is unlawful for any person knowingly or intentionally to
29 possess 3,4-methylenedioxymethamphetamine.

30 “(2)(a) Unlawful possession of 3,4-methylenedioxymethamphetamine is a

1 [Class E violation] **drug enforcement misdemeanor punishable as de-**
2 **scribed in section 35 of this 2024 Act.**

3 “(b) Notwithstanding paragraph (a) of this subsection, unlawful pos-
4 session of 3,4-methylenedioxymethamphetamine is a Class A misdemeanor if
5 the person possesses one gram or more or five or more pills, tablets or cap-
6 sules of a mixture or substance containing a detectable amount of:

7 “(A) 3,4-methylenedioxyamphetamine;

8 “(B) 3,4-methylenedioxymethamphetamine; or

9 “(C) 3,4-methylenedioxy-N-ethylamphetamine.

10 “(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful
11 possession of 3,4-methylenedioxymethamphetamine is a Class B felony if:

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

13 or

14 “(B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

15 **“SECTION 45.** ORS 475.884, as amended by section 31 of this 2024 Act,
16 is amended to read:

17 “475.884. (1) It is unlawful for any person knowingly or intentionally to
18 possess cocaine unless the substance was obtained directly from, or pursuant
19 to a valid prescription or order of, a practitioner while acting in the course
20 of professional practice, or except as otherwise authorized by ORS 475.005
21 to 475.285 and 475.752 to 475.980.

22 “(2)(a) Unlawful possession of cocaine is a [Class E violation] **drug**
23 **enforcement misdemeanor punishable as described in section 35 of this**
24 **2024 Act.**

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

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

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

3 “(B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

4 **“SECTION 46.** ORS 475.894, as amended by section 32 of this 2024 Act,
5 is amended to read:

6 “475.894. (1) It is unlawful for any person knowingly or intentionally to
7 possess methamphetamine unless the substance was obtained directly from,
8 or pursuant to, a valid prescription or order of a practitioner while acting
9 in the course of professional practice, or except as otherwise authorized by
10 ORS 475.005 to 475.285 and 475.752 to 475.980.

11 “(2)(a) Unlawful possession of methamphetamine is a [*Class E violation*]
12 **drug enforcement misdemeanor punishable as described in section 35**
13 **of this 2024 Act.**

14 “(b) Notwithstanding paragraph (a) of this subsection, unlawful pos-
15 session of methamphetamine is a Class A misdemeanor if the person pos-
16 sesses two grams or more of a mixture or substance containing a detectable
17 amount of methamphetamine.

18 “(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful
19 possession of methamphetamine is a Class C felony if:

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

22 “(B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

23 **“SECTION 46a.** ORS 135.753 is amended to read:

24 “135.753. (1) If the court directs the charge or action to be dismissed, the
25 defendant, if in custody, shall be discharged. If the defendant has been re-
26 leased, the release agreement is exonerated and security deposited shall be
27 refunded to the defendant.

28 “(2) An order for the dismissal of a charge or action, as provided in ORS
29 135.703 to 135.709 and 135.745 to 135.757, is a bar to another prosecution for
30 the same crime if the crime is a Class B or C misdemeanor; but it is not a

1 bar if the crime charged is a Class A misdemeanor, **a misdemeanor de-**
2 **scribed in section 35 of this 2024 Act** or a felony.

3 “(3) If any charge or action is dismissed for the purpose of consolidation
4 with one or more other charges or actions, then any such dismissal shall not
5 be a bar to another prosecution for the same offense.

6

7

“(Supervision Duty and Funding)”

8

9 **“SECTION 47.** ORS 423.478 is amended to read:

10 “423.478. (1) The Department of Corrections shall:

11 “(a) Operate prisons for offenders sentenced to terms of incarceration for
12 more than 12 months;

13 “(b) Provide central information and data services sufficient to:

14 “(A) Allow tracking of offenders; and

15 “(B) Permit analysis of correlations between sanctions, supervision, ser-
16 vices and programs, and future criminal conduct; and

17 “(c) Provide interstate compact administration and jail inspections.

18 “(2) Subject to ORS 423.483, each county, in partnership with the depart-
19 ment, shall assume responsibility for community-based supervision, sanctions
20 and services for offenders convicted of felonies, designated drug-related
21 misdemeanors or designated person misdemeanors, **or persons who have**
22 **entered into a probation agreement on a drug enforcement**
23 **misdemeanor pursuant to section 52 of 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 incar-
28 ceration;

29 “(e) Sanctioned, on or after January 1, 1997, by a court or the State Board
30 of Parole and Post-Prison Supervision to 12 months or less incarceration for

1 violation of a condition of parole, probation or post-prison supervision; or

2 “(f) On conditional release under ORS 420A.206.

3 “(3) Notwithstanding the fact that the court has sentenced a person to a
4 term of incarceration, when an offender is committed to the custody of the
5 supervisory authority of a county under ORS 137.124 (2) or (4), the supervi-
6 sory authority may execute the sentence by imposing sanctions other than
7 incarceration if deemed appropriate by the supervisory authority. If the su-
8 pervisory authority releases a person from custody under this subsection and
9 the person is required to report as a sex offender under ORS 163A.010, the
10 supervisory authority, as a condition of release, shall order the person to
11 report to the Department of State Police, a city police department or a
12 county sheriff’s office or to the supervising agency, if any:

13 “(a) When the person is released;

14 “(b) Within 10 days of a change of residence;

15 “(c) Once each year within 10 days of the person’s birth date;

16 “(d) Within 10 days of the first day the person works at, carries on a
17 vocation at or attends an institution of higher education; and

18 “(e) Within 10 days of a change in work, vocation or attendance status
19 at an institution of higher education.

20 “(4) As used in this section:

21 “(a) ‘Attends,’ ‘institution of higher education,’ ‘works’ and ‘carries on a
22 vocation’ have the meanings given those terms in ORS 163A.005.

23 “(b) ‘Designated drug-related misdemeanor’ means:

24 “(A) **Unlawful possession of a Schedule I controlled substance under**
25 **ORS 475.752 (3)(a);**

26 “(B) **Unlawful possession of a Schedule II controlled substance un-**
27 **der ORS 475.752 (3)(b);**

28 “(C) **Unlawful possession of a Schedule III controlled substance**
29 **under ORS 475.752 (3)(c);**

30 “(D) **Unlawful possession of a Schedule IV controlled substance**

1 **under ORS 475.752 (3)(d);**
2 **“(E) Unlawful possession of a Schedule I controlled substance under**
3 **ORS 475.752 (7)(a);**
4 “[A] **(F) Unlawful possession of fentanyl under ORS 475.752 (8)(a);**
5 **“(G) Unlawful possession of hydrocodone under ORS 475.814 (2)(a);**
6 **“(H) Unlawful possession of hydrocodone under ORS 475.814 (2)(b);**
7 **“(I) Unlawful possession of methadone under ORS 475.824 (2)(a);**
8 “[B] **(J) Unlawful possession of methadone under ORS 475.824 (2)(b);**
9 **“(K) Unlawful possession of oxycodone under ORS 475.834 (2)(a);**
10 “[C] **(L) Unlawful possession of oxycodone under ORS 475.834 (2)(b);**
11 **“(M) Unlawful possession of heroin under ORS 475.854 (2)(a);**
12 “[D] **(N) Unlawful possession of heroin under ORS 475.854 (2)(b);**
13 **“(O) Unlawful possession of 3,4-methylenedioxymethamphetamine**
14 **under ORS 475.874 (2)(a);**
15 “[E] **(P) Unlawful possession of 3,4-methylenedioxymethamphetamine**
16 **under ORS 475.874 (2)(b);**
17 **“(Q) Unlawful possession of cocaine under ORS 475.884 (2)(a);**
18 “[F] **(R) Unlawful possession of cocaine under ORS 475.884 (2)(b); [or]**
19 **“(S) Unlawful possession of methamphetamine under ORS 475.894**
20 **(2)(a); or**
21 “[G] **(T) Unlawful possession of methamphetamine under ORS 475.894**
22 **(2)(b).**
23 **“(c) ‘Designated person misdemeanor’ means:**
24 **“(A) Assault in the fourth degree constituting domestic violence if the**
25 **judgment document is as described in ORS 163.160 (4);**
26 **“(B) Menacing constituting domestic violence if the judgment document**
27 **is as described in ORS 163.190 (3); or**
28 **“(C) Sexual abuse in the third degree under ORS 163.415.**
29 **“SECTION 48. ORS 423.483 is amended to read:**
30 **“423.483. (1)(a) The baseline funding for biennia beginning after June 30,**

1 1999, is the current service level for the expenses of providing management,
2 support services, supervision and sanctions for offenders described in ORS
3 423.478 (2). At a minimum, each biennium's appropriation must be established
4 at this baseline.

5 “(b) The baseline funding described in paragraph (a) of this subsection:

6 “(A) May not be decreased as a result of a reduction under ORS 137.633.

7 “(B) May not be increased as a result of community-based sanctions, ser-
8 vices and programs that are funded under section 53, chapter 649, Oregon
9 Laws 2013.

10 “(2) If the total state community corrections appropriation is less than the
11 baseline calculated under subsection (1) of this section, a county may dis-
12 continue participation by written notification to the director 180 days prior
13 to implementation of the change. If a county discontinues participation, the
14 responsibility for correctional services transferred to the county and the
15 portion of funding made available to the county under ORS 423.530 revert
16 to the Department of Corrections. Responsibility for supervision of and pro-
17 vision of correctional services to misdemeanor offenders does not revert to
18 the department under any circumstances except those of offenders convicted
19 of designated drug-related misdemeanors or designated person
20 misdemeanors, **or of persons who have entered into a probation agree-**
21 **ment on a drug enforcement misdemeanor pursuant to section 52 of**
22 **this 2024 Act.**

23 “(3) As used in this section:

24 “(a) ‘Current service level’ means the calculated cost of continuing cur-
25 rent legislatively funded programs, phased in programs and increased
26 caseloads minus one-time costs, decreased caseloads, phased out programs
27 and pilot programs with the remainder adjusted for inflation as determined
28 by the Legislative Assembly in its biennial appropriation to the Department
29 of Corrections.

30 “(b) ‘Designated drug-related misdemeanor’ has the meaning given that

1 term in ORS 423.478.

2 “(c) ‘Designated person misdemeanor’ has the meaning given that term in
3 ORS 423.478.

4 **“SECTION 49.** ORS 423.483, as amended by section 22, chapter 649,
5 Oregon Laws 2013, section 3, chapter 140, Oregon Laws 2015, and section 2,
6 chapter 341, Oregon Laws 2023, is amended to read:

7 “423.483. (1)(a) The baseline funding for biennia beginning after June 30,
8 1999, is the current service level for the expenses of providing management,
9 support services, supervision and sanctions for offenders described in ORS
10 423.478 (2). At a minimum, each biennium’s appropriation must be established
11 at this baseline.

12 “(b) The baseline funding described in paragraph (a) of this subsection
13 may not be decreased as a result of a reduction under ORS 137.633.

14 “(2) If the total state community corrections appropriation is less than the
15 baseline calculated under subsection (1) of this section, a county may dis-
16 continue participation by written notification to the director 180 days prior
17 to implementation of the change. If a county discontinues participation, the
18 responsibility for correctional services transferred to the county and the
19 portion of funding made available to the county under ORS 423.530 revert
20 to the Department of Corrections. Responsibility for supervision of and pro-
21 vision of correctional services to misdemeanor offenders does not revert to
22 the department under any circumstances except those of offenders convicted
23 of designated drug-related misdemeanors or designated person
24 misdemeanors, **or of persons who have entered into a probation agree-**
25 **ment on a drug enforcement misdemeanor pursuant to section 52 of**
26 **this 2024 Act.**

27 “(3) As used in this section:

28 “(a) ‘Current service level’ means the calculated cost of continuing cur-
29 rent legislatively funded programs, phased in programs and increased
30 caseloads minus one-time costs, decreased caseloads, phased out programs

1 and pilot programs with the remainder adjusted for inflation as determined
2 by the Legislative Assembly in its biennial appropriation to the Department
3 of Corrections.

4 “(b) ‘Designated drug-related misdemeanor’ has the meaning given that
5 term in ORS 423.478.

6 “(c) ‘Designated person misdemeanor’ has the meaning given that term in
7 ORS 423.478.

8 **“SECTION 50.** ORS 423.525 is amended to read:

9 “423.525. (1) A county, group of counties or intergovernmental corrections
10 entity shall apply to the Director of the Department of Corrections in a
11 manner and form prescribed by the director for funding made available under
12 ORS 423.500 to 423.560. The application shall include a community cor-
13 rections plan. The Department of Corrections shall provide consultation and
14 technical assistance to counties to aid in the development and implementa-
15 tion of community corrections plans.

16 “(2)(a) From July 1, 1995, until June 30, 1999, a county, group of counties
17 or intergovernmental corrections entity may make application requesting
18 funding for the construction, acquisition, expansion or remodeling of
19 correctional facilities to serve the county, group of counties or intergovern-
20 mental corrections entity. The department shall review the application for
21 funding of correctional facilities in accordance with criteria that consider
22 design, cost, capacity, need, operating efficiency and viability based on the
23 county’s, group of counties’ or intergovernmental corrections entity’s ability
24 to provide for ongoing operations.

25 “(b)(A) If the application is approved, the department shall present the
26 application with a request to finance the facility with financing agreements
27 to the State Treasurer and the Director of the Oregon Department of Ad-
28 ministrative Services. Except as otherwise provided in subparagraph (B) of
29 this paragraph, upon approval of the request by the State Treasurer and the
30 Director of the Oregon Department of Administrative Services, the facility

1 may be financed with financing agreements, and certificates of participation
2 issued pursuant thereto, as provided in ORS 283.085 to 283.092. All decisions
3 approving or denying applications and requests for financing under this
4 section are final. No such decision is subject to judicial review of any kind.

5 “(B) If requests to finance county correctional facility projects are sub-
6 mitted after February 22, 1996, and the requests have not been approved by
7 the department on the date a session of the Legislative Assembly convenes,
8 the requests are also subject to the approval of the Legislative Assembly.

9 “(c) After approval but prior to the solicitation of bids or proposals for
10 the construction of a project, the county, group of counties or intergovern-
11 mental corrections entity and the department shall enter into a written
12 agreement that determines the procedures, and the parties responsible, for
13 the awarding of contracts and the administration of the construction project
14 for the approved correctional facility. If the parties are unable to agree on
15 the terms of the written agreement, the Governor shall decide the terms of
16 the agreement. The Governor’s decision is final.

17 “(d) After approval of a construction project, the administration of the
18 project shall be conducted as provided in the agreement required by para-
19 graph (c) of this subsection. The agreement must require at a minimum that
20 the county, group of counties or intergovernmental corrections entity shall
21 submit to the department any change order or alteration of the design of the
22 project that, singly or in the aggregate, reduces the capacity of the
23 correctional facility or materially changes the services or functions of the
24 project. The change order or alteration is not effective until approved by the
25 department. In reviewing the change order or alteration, the department
26 shall consider whether the implementation of the change order or alteration
27 will have any material adverse impact on the parties to any financing
28 agreements or the holders of any certificates of participation issued to fund
29 county correctional facilities under this section. In making its decision, the
30 department may rely on the opinions of the Department of Justice, bond

1 counsel or professional financial advisers.

2 “(3) Notwithstanding ORS 283.085, for purposes of this section, ‘financing
3 agreement’ means a lease purchase agreement, an installment sale agreement,
4 a loan agreement or any other agreement to finance a correctional facility
5 described in this section, or to refinance a previously executed financing
6 agreement for the financing of a correctional facility. The state is not re-
7 quired to own or operate a correctional facility in order to finance it under
8 ORS 283.085 to 283.092 and this section. The state, an intergovernmental
9 corrections entity, county or group of counties may enter into any agree-
10 ments, including, but not limited to, leases and subleases, that are reasonably
11 necessary or generally accepted by the financial community for purposes of
12 acquiring or securing financing as authorized by this section. In financing
13 county correctional facilities under this section, ‘property rights’ as used in
14 ORS 283.085 includes leasehold mortgages of the state’s rights under leases
15 of correctional facilities from counties.

16 “(4) Notwithstanding any other provision of state law, county charter or
17 ordinance, a county may convey or lease to the State of Oregon, acting by
18 and through the Department of Corrections, title to interests in, or a lease
19 of, any real property, facilities or personal property owned by the county for
20 the purpose of financing the construction, acquisition, expansion or remodel-
21 eling of a correctional facility. Upon the payment of all principal and inter-
22 est on, or upon any other satisfaction of, the financing agreement used to
23 finance the construction, acquisition, expansion or remodeling of a
24 correctional facility, the state shall reconvey its interest in, or terminate and
25 surrender its leasehold of, the property or facilities, including the financed
26 construction, acquisition, expansion or remodeling, to the county. In addi-
27 tion to any authority granted by ORS 283.089, for the purposes of obtaining
28 financing, the state may enter into agreements under which the state may
29 grant to trustees or lenders leases, subleases and other security interests in
30 county property conveyed or leased to the state under this subsection and

1 in the property or facilities financed by financing agreements.

2 “(5) In connection with the financing of correctional facilities, the Di-
3 rector of the Oregon Department of Administrative Services may bill the
4 Department of Corrections, and the Department of Corrections shall pay the
5 amounts billed, in the same manner as provided in ORS 283.089. As required
6 by ORS 283.091, the Department of Corrections and the Oregon Department
7 of Administrative Services shall include in the Governor’s budget all
8 amounts that will be due in each fiscal period under financing agreements
9 for correctional facilities. Amounts payable by the state under a financing
10 agreement for the construction, acquisition, expansion or remodeling of a
11 correctional facility are limited to available funds as defined in ORS 283.085,
12 and no lender, trustee, certificate holder or county has any claim or recourse
13 against any funds of the state other than available funds.

14 “(6) The director shall adopt rules that may be necessary for the admin-
15 istration, evaluation and implementation of ORS 423.500 to 423.560. The
16 standards shall be sufficiently flexible to foster the development of new and
17 improved supervision or rehabilitative practices and maximize local control.

18 “(7) When a county assumes responsibility under ORS 423.500 to 423.560
19 for correctional services previously provided by the department, the county
20 and the department shall enter into an intergovernmental agreement that
21 includes a local community corrections plan consisting of program de-
22 scriptions, budget allocation, performance objectives and methods of evalu-
23 ating each correctional service to be provided by the county. The
24 performance objectives must include in dominant part reducing future crim-
25 inal conduct. The methods of evaluating services must include, to the extent
26 of available information systems resources, the collection and analysis of
27 data sufficient to determine the apparent effect of the services on future
28 criminal conduct.

29 “(8) All community corrections plans shall comply with rules adopted
30 pursuant to ORS 423.500 to 423.560, and shall include but need not be limited

1 to an outline of the basic structure and the supervision, services and local
2 sanctions to be applied to offenders convicted of felonies, designated drug-
3 related misdemeanors and designated person misdemeanors, **or persons who**
4 **have entered into a probation agreement on a drug enforcement**
5 **misdemeanor pursuant to section 52 of this 2024 Act**, who are:

6 “(a) On parole;

7 “(b) On probation;

8 “(c) On post-prison supervision;

9 “(d) Sentenced, on or after January 1, 1997, to 12 months or less incar-
10 ceration;

11 “(e) Sanctioned, on or after January 1, 1997, by a court or the State Board
12 of Parole and Post-Prison Supervision to 12 months or less incarceration for
13 a violation of a condition of parole, probation or post-prison supervision; and

14 “(f) On conditional release under ORS 420A.206.

15 “(9) All community corrections plans shall designate a community cor-
16 rections manager of the county or counties and shall provide that the ad-
17 ministration of community corrections under ORS 423.500 to 423.560 shall be
18 under such manager.

19 “(10) No amendment to or modification of a county-approved community
20 corrections plan shall be placed in effect without prior notice to the director
21 for purposes of statewide data collection and reporting.

22 “(11) The obligation of the state to provide funding and the scheduling for
23 providing funding of a project approved under this section is dependent upon
24 the ability of the state to access public security markets to sell financing
25 agreements.

26 “(12) No later than January 1 of each odd-numbered year, the Department
27 of Corrections shall:

28 “(a) Evaluate the community corrections policy established in ORS
29 423.475, 423.478, 423.483 and 423.500 to 423.560; and

30 “(b) Assess the effectiveness of local revocation options.

1 “(13) As used in this section, ‘designated drug-related misdemeanor’ and
2 ‘designated person misdemeanor’ have the meanings given those terms in
3 ORS 423.478.

4
5 **“(Conditional Discharge)**
6

7 **“SECTION 51. Section 52 of this 2024 Act is added to and made a**
8 **part of ORS 475.752 to 475.980.**

9 **“SECTION 52. (1)(a) When a person is charged with unlawful pos-**
10 **session of a controlled substance under ORS 475.752 (3)(a), (b), (c) or**
11 **(d), 475.814 (2)(a), 475.824 (2)(a), 475.834 (2)(a), 475.854 (2)(a), 475.874**
12 **(2)(a), 475.884 (2)(a) or 475.894 (2)(a) constituting a drug enforcement**
13 **misdemeanor as described in section 35 of this 2024 Act, the person is**
14 **eligible to enter, and subject to paragraphs (b) and (c) of this sub-**
15 **section may request to enter, into a probation agreement as described**
16 **in this section.**

17 **“(b) The district attorney may object to the defendant’s entry into**
18 **a probation agreement under this section. After hearing the reasons**
19 **for the objection, the court may deny the person’s entry if the pro-**
20 **bation agreement would not serve the needs of the person or the pro-**
21 **tection and welfare of the community.**

22 **“(c) A person may enter into a probation agreement under this**
23 **section no later than 30 days after the person’s first appearance, un-**
24 **less the court authorizes a later date for good cause shown. For pur-**
25 **poses of this paragraph, the filing of a demurrer, a motion to suppress**
26 **or a motion for an omnibus hearing does not constitute good cause.**

27 **“(d) When a person enters into a probation agreement under this**
28 **section, the court shall defer further proceedings on the charge de-**
29 **scribed in paragraph (a) of this subsection and place the person on**
30 **probation. The terms of the probation shall be defined by a probation**

1 agreement.

2 “(e) A person may enter into a probation agreement under this
3 section on the charge described in paragraph (a) of this subsection
4 regardless of whether the person is charged with other offenses within
5 the same charging instrument or as part of a separate charging in-
6 strument, but the proceedings on the other offenses continue in the
7 normal course and are not deferred.

8 “(2)(a) A probation agreement described in this section carries the
9 understanding that if the defendant fulfills the terms of the agree-
10 ment, the charge described in subsection (1)(a) of this section that is
11 the subject of the agreement will be dismissed with prejudice.

12 “(b) The initial term of probation shall be 12 months, subject to
13 early termination by the court. The terms of the probation shall in-
14 clude the general conditions of probation described in ORS 137.540 (1)
15 and a requirement that the defendant complete a substance abuse
16 evaluation and any treatment recommended by the evaluator. The
17 court may impose sanctions of up to a total of 30 days of imprisonment
18 upon finding that the person has violated the conditions of probation.
19 Structured, intermediate sanctions as described in ORS 137.593 may
20 be imposed in accordance with rules adopted under ORS 137.595 when
21 the conditions of a term of probation described in this section have
22 been violated.

23 “(c) The agreement must contain a waiver of the following rights
24 of the defendant with respect to each criminal charge:

25 “(A) The right to a speedy trial and trial by jury;

26 “(B) The right to present evidence on the defendant’s behalf;

27 “(C) The right to confront and cross-examine witnesses against the
28 defendant;

29 “(D) The right to contest evidence presented against the defendant,
30 including the right to object to hearsay evidence; and

1 **“(E) The right to appeal from a judgment of conviction resulting**
2 **from an adjudication of guilt entered under subsection (3) of this sec-**
3 **tion, unless the appeal is based on an allegation that the sentence**
4 **exceeds the maximum allowed by law or constitutes cruel and unusual**
5 **punishment.**

6 **“(d) The agreement may not contain a requirement that the de-**
7 **fendant enter a plea of guilty or no contest on any charge in the**
8 **accusatory instrument.**

9 **“(e) The fact that a person has entered into a probation agreement**
10 **under this section does not constitute an admission of guilt and is not**
11 **sufficient to warrant a finding or adjudication of guilt by a court.**

12 **“(f) Police reports or other documents associated with the criminal**
13 **charges in a court file other than the probation agreement may not**
14 **be admitted into evidence, and do not establish a factual basis for**
15 **finding the defendant guilty, unless the court resumes criminal pro-**
16 **ceedings and enters an adjudication of guilt under subsection (3) of**
17 **this section.**

18 **“(3) Upon violation of a term or condition of the probation agree-**
19 **ment, the court may impose a sanction or may resume the criminal**
20 **proceedings and may find the defendant guilty of the charge that is**
21 **the subject of the agreement in accordance with the waiver of rights**
22 **in the agreement. The defendant may not contest the sufficiency of**
23 **the evidence establishing the defendant’s guilt of the offenses in the**
24 **accusatory instrument.**

25 **“(4) Upon the conclusion or early termination of the probation pe-**
26 **riod, if the court has received notice from the district attorney or a**
27 **supervising officer that the person has fulfilled the terms and condi-**
28 **tions of the probation agreement, the court shall discharge the person**
29 **and dismiss the charge that is the subject of the agreement. Discharge**
30 **and dismissal under this section shall be without adjudication of guilt**

1 and is not a conviction for purposes of this section or for purposes of
2 disqualifications or disabilities imposed by law upon conviction of a
3 crime.

4 “(5) In the event that the period of probation under this section
5 expires, but the court has not received notice that the terms and
6 conditions of the probation agreement have been fulfilled and no pro-
7 bation violation proceeding was initiated prior to the expiration of the
8 period of probation, the court may not discharge the person and dis-
9 miss the proceedings against the person. The court shall instead issue
10 an order requiring the person to appear and to show cause why the
11 court should not enter an adjudication of guilt as described in sub-
12 section (3) of this section due to the failure of the person to fulfill the
13 terms and conditions of the probation agreement prior to expiration
14 of the period of probation. At the hearing on the order to show cause,
15 after considering any evidence or argument from the district attorney
16 and the person, the court may:

17 “(a) Order a new period of probation to allow the person to fulfill
18 the terms and conditions of the probation agreement; or

19 “(b) Enter an adjudication of guilt as described in subsection (3) of
20 this section.

21 **“SECTION 53.** ORS 475.245 is amended to read:

22 “475.245. (1)(a) Whenever a person is charged with an offense listed in
23 subsection (5) of this section, the court, with the consent of the district at-
24 torney and the person, may defer further proceedings and place the person
25 on probation. The terms of the probation shall be defined by a probation
26 agreement.

27 “(b) A probation agreement carries the understanding that if the defend-
28 ant fulfills the terms of the agreement, the criminal charges filed against the
29 defendant will be dismissed with prejudice.

30 “(c) The agreement must contain a waiver of the following rights of the

1 defendant with respect to each criminal charge:

2 “(A) The right to a speedy trial and trial by jury;

3 “(B) The right to present evidence on the defendant’s behalf;

4 “(C) The right to confront and cross-examine witnesses against the de-
5 fendant;

6 “(D) The right to contest evidence presented against the defendant, in-
7 cluding the right to object to hearsay evidence; and

8 “(E) The right to appeal from a judgment of conviction resulting from an
9 adjudication of guilt entered under subsection (2) of this section, unless the
10 appeal is based on an allegation that the sentence exceeds the maximum al-
11 lowed by law or constitutes cruel and unusual punishment.

12 “(d) The agreement must include a requirement that the defendant pay
13 any restitution owed to the victim as determined by the court, and any fees
14 for court-appointed counsel ordered by the court under ORS 135.050.

15 “(e) The agreement may not contain a requirement that the defendant
16 enter a plea of guilty or no contest on any charge in the accusatory instru-
17 ment.

18 “(f) Entering into a probation agreement does not constitute an admission
19 of guilt and is not sufficient to warrant a finding or adjudication of guilt
20 by a court.

21 “(g) Police reports or other documents associated with the criminal
22 charges in a court file other than the probation agreement may not be ad-
23 mitted into evidence, and do not establish a factual basis for finding the
24 defendant guilty, unless the court resumes criminal proceedings and enters
25 an adjudication of guilt under subsection (2) of this section.

26 “(2) Upon violation of a term or condition of the probation agreement, the
27 court may **impose sanctions of up to a total of 30 days of imprisonment,**
28 **or** resume the criminal proceedings and may find the defendant guilty of the
29 offenses in the accusatory instrument in accordance with the waiver of
30 rights in the probation agreement. The defendant may not contest the suffi-

1 ciency of the evidence establishing the defendant's guilt of the offenses in
2 the accusatory instrument.

3 “(3) Upon fulfillment of the terms and conditions of the probation agree-
4 ment, the court shall discharge the person and dismiss the proceedings
5 against the person. Discharge and dismissal under this section shall be
6 without adjudication of guilt and is not a conviction for purposes of this
7 section or for purposes of disqualifications or disabilities imposed by law
8 upon conviction of a crime. There may be only one discharge and dismissal
9 under this section with respect to any person.

10 “(4) In the event that the period of probation under this section expires,
11 but the terms and conditions of the probation agreement have not been ful-
12 filled and no probation violation proceeding was initiated prior to the expi-
13 ration of the period of probation, the court may not discharge the person and
14 dismiss the proceedings against the person. The court shall instead issue an
15 order requiring the person to appear and to show cause why the court should
16 not enter an adjudication of guilt as described in subsection (2) of this sec-
17 tion due to the failure of the person to fulfill the terms and conditions of the
18 probation agreement prior to expiration of the period of probation. At the
19 hearing on the order to show cause, after considering any evidence or argu-
20 ment from the district attorney and the person, the court may:

21 “(a) Order a new period of probation to allow the person to fulfill the
22 terms and conditions of the probation agreement; or

23 “(b) Enter an adjudication of guilt as described in subsection (2) of this
24 section.

25 “(5) This section applies to the following offenses:

26 “(a) Possession of a controlled substance under ORS 475.752 (3), 475.814,
27 475.824, 475.834, 475.854, 475.874, 475.884 or 475.894;

28 “(b) Unlawfully possessing a prescription drug under ORS 689.527 (6);

29 “(c) Unlawfully possessing marijuana plants, usable marijuana,
30 cannabinoid products, cannabinoid concentrates or cannabinoid extracts as

1 described in ORS 475C.337 or 475C.341, if the offense is a misdemeanor or
2 felony;

3 “(d) Endangering the welfare of a minor under ORS 163.575 (1)(b);

4 “(e) Frequenting a place where controlled substances are used under ORS
5 167.222; and

6 “(f) A property offense that is motivated by a dependence on a controlled
7 substance or a marijuana item as defined in ORS 475C.009.

8

9 “(Expungement)

10

11 **“SECTION 54. (1)(a) If a law enforcement agency receives written**
12 **verification from a deflection program coordinator that a person has**
13 **completed a deflection program after being referred to the program**
14 **due to the alleged commission of unlawful possession of a controlled**
15 **substance constituting a drug enforcement misdemeanor as described**
16 **in section 35 of this 2024 Act, the law enforcement agency shall im-**
17 **mediately provide the verification to the district attorney with au-**
18 **thority to prosecute the possession offense and to the court with**
19 **jurisdiction over the offense.**

20 **“(b) Within 60 days of receiving a verification described in para-**
21 **graph (a) of this subsection, the law enforcement agency and district**
22 **attorney shall seal all records related to the person’s participation in**
23 **the program, the alleged conduct that resulted in the referral to the**
24 **program and, if applicable, the citation or arrest for the offense, and**
25 **the court shall seal all electronic records that may have been created**
26 **concerning the offense. Records sealed under this subsection are not**
27 **subject to disclosure under ORS 192.311 to 192.478 or any other law.**

28 **“(2) After two years have elapsed from the date that a person is**
29 **cited for unlawful possession of a controlled substance constituting a**
30 **drug enforcement misdemeanor as described in section 35 of this 2024**

1 Act, and if no further prosecutorial action on the citation has oc-
2 curred, within 60 days after the conclusion of the two year time period,
3 any law enforcement agency or district attorney that possesses records
4 related to the citation, and any court that possesses electronic records
5 related to the citation, shall seal the records. Records sealed under
6 this subsection are not subject to disclosure under ORS 192.311 to
7 192.478 or any other law.

8 “(3)(a) Notwithstanding ORS 137.225, when a person successfully
9 completes a probation agreement and the court discharges the person
10 and dismisses the proceedings against the person under section 52 (4)
11 of this 2024 Act, the court shall, within 90 days after the dismissal,
12 enter an order sealing all records related to the arrest or citation and
13 the criminal proceedings. The clerk of the court shall forward a copy
14 of the order, or a certified copy if requested, to such agencies as di-
15 rected by the court.

16 “(b) Notwithstanding ORS 137.225, when the court receives notice
17 that a defendant has successfully completed a term of probation for
18 unlawful possession of a controlled substance constituting a drug
19 enforcement misdemeanor as described in section 35 of this 2024 Act,
20 the court shall, within 90 days after the notification, enter an order
21 sealing all records related to the arrest or citation and the criminal
22 proceedings. The clerk of the court shall forward a copy of the order,
23 or a certified copy if requested, to such agencies as directed by the
24 court.

25 “(4)(a) Notwithstanding ORS 137.225, after three years have passed
26 from the date of entry of judgment of conviction for unlawful pos-
27 session of a controlled substance constituting a drug enforcement
28 misdemeanor as described in section 35 of this 2024 Act, the court
29 shall, within 60 days after the three year period has concluded, enter
30 an order sealing all records related to the arrest or citation, charges

1 and conviction. The clerk of the court shall forward a copy of the or-
2 der, or a certified copy if requested, to such agencies as directed by
3 the court.

4 “(b) Notwithstanding ORS 137.225, after three years have passed
5 since the dismissal of a unlawful possession of a controlled substance
6 constituting a drug enforcement misdemeanor as described in section
7 35 of this 2024 Act, if the court has not sealed records of the offense
8 under subsection (2) or (3) of this section, the court shall, within 60
9 days after the three year period has concluded, enter an order sealing
10 all records related to the arrest or citation and any criminal pro-
11 ceedings. The clerk of the court shall forward a copy of the order, or
12 a certified copy if requested, to such agencies as directed by the court.

13 “(5)(a) The State Court Administrator shall develop a standardized
14 form for obtaining the information necessary for the Judicial Depart-
15 ment to seal records as required by subsections (3) and (4) of this
16 section.

17 “(b) When a person enters into a probation agreement under section
18 52 of this 2024 Act, or is convicted of unlawful possession of a con-
19 trolled substance constituting a drug enforcement misdemeanor as
20 described in section 35 of this 2024 Act, the district attorney and the
21 defense attorney shall ensure that a copy of the form described in
22 paragraph (a) of this subsection is completed and submitted to the
23 court.

24 “SECTION 55. ORS 137.225 is amended to read:

25 “137.225. (1)(a) At any time after the person becomes eligible as described
26 in paragraph (b) of this subsection, any person convicted of an offense who
27 has fully complied with and performed the sentence of the court for the of-
28 fense, and whose conviction is described in subsection (5) of this section, by
29 motion may apply to the court where the conviction was entered for entry
30 of an order setting aside the conviction. A person who is still under super-

1 vision as part of the sentence for the offense that is the subject of the motion
2 has not fully complied with or performed the sentence of the court.

3 “(b) A person is eligible to file a motion under paragraph (a) of this
4 subsection:

5 “(A) For a Class B felony, seven years from the date of conviction or the
6 release of the person from imprisonment for the conviction sought to be set
7 aside, whichever is later.

8 “(B) For a Class C felony, five years from the date of conviction or the
9 release of the person from imprisonment for the conviction sought to be set
10 aside, whichever is later.

11 “(C) For a Class A misdemeanor, three years from the date of conviction
12 or the release of the person from imprisonment for the conviction sought to
13 be set aside, whichever is later.

14 “(D) For a Class B or Class C misdemeanor, a violation or the finding
15 of a person in contempt of court, one year from the date of conviction or
16 finding or the release of the person from imprisonment for the conviction or
17 finding sought to be set aside, whichever is later.

18 “(c) If no accusatory instrument is filed, at any time after 60 days from
19 the date the prosecuting attorney indicates that the state has elected not to
20 proceed with a prosecution or contempt proceeding, an arrested, cited or
21 charged person may apply to the court in the county in which the person
22 was arrested, cited or charged, for entry of an order setting aside the record
23 of the arrest, citation or charge.

24 “(d) At any time after an acquittal or a dismissal other than a dismissal
25 described in paragraph (c) of this subsection, an arrested, cited or charged
26 person may apply to the court in the county in which the person was ar-
27 rested, cited or charged, for entry of an order setting aside the record of the
28 arrest, citation or charge.

29 “(e) Notwithstanding paragraph (b) of this subsection, a person whose
30 sentence of probation was revoked may not apply to the court for entry of

1 an order setting aside the conviction for which the person was sentenced to
2 probation for a period of three years from the date of revocation or until the
3 person becomes eligible as described in paragraph (b) of this subsection,
4 whichever occurs later.

5 “(f) A person filing a motion under this section is not required to pay the
6 filing fee established under ORS 21.135.

7 “(2)(a) A copy of the motion shall be served upon the office of the prose-
8 cuting attorney who prosecuted the offense, or who had authority to prose-
9 cute the charge if there was no accusatory instrument filed. The prosecuting
10 attorney may object to a motion filed under subsection (1)(a) of this section
11 and shall notify the court and the person of the objection within 120 days
12 of the date the motion was filed with the court.

13 “(b) When a prosecuting attorney is served with a copy of a motion to set
14 aside a conviction under subsection (1)(a) of this section, the prosecuting
15 attorney shall provide a copy of the motion and notice of the hearing date
16 to the victim, if any, of the offense by mailing a copy of the motion and
17 notice to the victim’s last-known address.

18 “(c) When a person makes a motion under this section, the person shall
19 forward to the Department of State Police a full set of the person’s finger-
20 prints on a fingerprint card or in any other manner specified by the depart-
21 ment.

22 “(d) When a person makes a motion under subsection (1)(a) of this section,
23 the person must pay a fee to the Department of State Police for the purpose
24 of the department performing a criminal record check. The department shall
25 establish a fee in an amount not to exceed the actual cost of performing the
26 criminal record check. If the department is required to perform only one
27 criminal record check for the person, the department may only charge one
28 fee, regardless of the number of counties in which the person is filing a
29 motion to set aside a conviction, arrest, charge or citation under this section.
30 The department shall provide a copy of the results of the criminal record

1 check to the prosecuting attorney.

2 “(e) The prosecuting attorney may not charge the person a fee for per-
3 forming the requirements described in this section.

4 “(3)(a) If an objection is received to a motion filed under subsection (1)(a)
5 of this section, the court shall hold a hearing, and may require the filing of
6 such affidavits and may require the taking of such proofs as the court deems
7 proper. The court shall allow the victim to make a statement at the hearing.
8 If the person is otherwise eligible for relief under this section, the court
9 shall grant the motion and enter an order as described in paragraph (b) of
10 this subsection unless the court makes written findings, by clear and con-
11 vincing evidence, that the circumstances and behavior of the person, from
12 the date of the conviction the person is seeking to set aside to the date of
13 the hearing on the motion, do not warrant granting the motion due to the
14 circumstances and behavior creating a risk to public safety. When deter-
15 mining whether the person’s circumstances and behavior create a risk to
16 public safety, the court may only consider criminal behavior, or violations
17 of regulatory law or administrative rule enforced by civil penalty or other
18 administrative sanction that relate to the character of the conviction sought
19 to be set aside. The court may not consider nonpunitive civil liability,
20 monetary obligations and motor vehicle violations. Upon granting the mo-
21 tion, the court shall enter an appropriate order containing the original arrest
22 or citation charge, the conviction charge, if different from the original, the
23 date of charge, the submitting agency and the disposition of the charge.
24 Upon the entry of the order, the person for purposes of the law shall be
25 deemed not to have been previously convicted, and the court shall issue an
26 order sealing the record of conviction and other official records in the case,
27 including the records of arrest, citation or charge.

28 “(b) The court shall grant a motion filed under subsection (1)(c) or (d) of
29 this section, or under subsection (1)(a) of this section if no objection to the
30 motion is received, and shall enter an appropriate order containing the ori-

1 ginal arrest or citation charge, the conviction charge, if applicable and dif-
2 ferent from the original, the date of charge, the submitting agency and the
3 disposition of the charge. Upon the entry of the order, the person for pur-
4 poses of the law shall be deemed not to have been previously convicted, ar-
5 rested, cited or charged, and the court shall issue an order sealing all official
6 records in the case, including the records of arrest, citation or charge,
7 whether or not the arrest, citation or charge resulted in a further criminal
8 proceeding.

9 “(4) The clerk of the court shall forward a certified copy of the order to
10 such agencies as directed by the court. A certified copy must be sent to the
11 Department of Corrections when the order concerns a conviction. Upon entry
12 of the order, the conviction, arrest, citation, charge or other proceeding shall
13 be deemed not to have occurred, and the person may answer accordingly any
14 questions relating to its occurrence.

15 “(5) The provisions of subsection (1)(a) of this section apply to a con-
16 viction for:

17 “(a) A Class B felony, except for a violation of ORS 166.429 or any crime
18 classified as a person felony as defined in the rules of the Oregon Criminal
19 Justice Commission.

20 “(b) Any misdemeanor, Class C felony or felony punishable as a
21 misdemeanor pursuant to ORS 161.705.

22 “(c) An offense constituting a violation under state law or local ordi-
23 nance.

24 “(d) An offense committed before January 1, 1972, that, if committed after
25 that date, would qualify for an order under this section.

26 “(e) The finding of a person in contempt of court.

27 “(6) Notwithstanding subsection (5) of this section, the provisions of sub-
28 section (1)(a) of this section do not apply to a conviction for:

29 “(a) Criminal mistreatment in the second degree under ORS 163.200 if the
30 victim at the time of the crime was 65 years of age or older.

1 “(b) Criminal mistreatment in the first degree under ORS 163.205 if the
2 victim at the time of the crime was 65 years of age or older, or when the
3 offense constitutes child abuse as defined in ORS 419B.005.

4 “(c) Endangering the welfare of a minor under ORS 163.575 (1)(a), when
5 the offense constitutes child abuse as defined in ORS 419B.005.

6 “(d) Criminally negligent homicide under ORS 163.145, when that offense
7 was punishable as a Class C felony.

8 “(e) Assault in the third degree under ORS 163.165 (1)(h).

9 “(f) Any sex crime, unless:

10 “(A) The sex crime is listed in ORS 163A.140 (1)(a) and:

11 “(i) The person has been relieved of the obligation to report as a sex
12 offender pursuant to a court order entered under ORS 163A.145 or 163A.150;
13 and

14 “(ii) The person has not been convicted of, found guilty except for insan-
15 ity of or found to be within the jurisdiction of the juvenile court based on
16 a crime for which the court is prohibited from setting aside the conviction
17 under this section; or

18 “(B) The sex crime constitutes a Class C felony and:

19 “(i) The person was under 16 years of age at the time of the offense;

20 “(ii) The person is:

21 “(I) Less than two years and 180 days older than the victim; or

22 “(II) At least two years and 180 days older, but less than three years and
23 180 days older, than the victim and the court finds that setting aside the
24 conviction is in the interests of justice and of benefit to the person and the
25 community;

26 “(iii) The victim’s lack of consent was due solely to incapacity to consent
27 by reason of being less than a specified age;

28 “(iv) The victim was at least 12 years of age at the time of the offense;

29 “(v) The person has not been convicted of, found guilty except for insanity
30 of or found to be within the jurisdiction of the juvenile court based on a

1 crime for which the court is prohibited from setting aside the conviction
2 under this section; and

3 “(vi) Each conviction or finding described in this subparagraph involved
4 the same victim.

5 “(7) Notwithstanding subsection (5) of this section, the provisions of sub-
6 section (1) of this section do not apply to:

7 “(a) A conviction for a state or municipal traffic offense.

8 “(b) A person convicted, within the following applicable time period im-
9 mediately preceding the filing of the motion pursuant to subsection (1) of
10 this section, of any other offense, excluding motor vehicle violations **and**
11 **unlawful possession of a controlled substance constituting a drug**
12 **enforcement misdemeanor as described in section 35 of this 2024 Act,**
13 whether or not the other conviction is for conduct associated with the same
14 criminal episode that caused the arrest, citation, charge or conviction that
15 is sought to be set aside:

16 “(A) For a motion concerning a Class B felony, seven years.

17 “(B) For a motion concerning a Class C felony, five years.

18 “(C) For a motion concerning a Class A misdemeanor, three years.

19 “(D) For a motion concerning a Class B or Class C misdemeanor a vio-
20 lation or a finding of contempt of court, one year.

21 “(c) A single violation, other than a motor vehicle violation, within the
22 time period specified in paragraph (b) of this subsection is not a conviction
23 under this subsection. Notwithstanding subsection (1) of this section, a
24 conviction that has been set aside under this section shall be considered for
25 the purpose of determining whether paragraph (b) of this subsection is ap-
26 plicable.

27 “(d) A person who at the time the motion authorized by subsection (1) of
28 this section is pending before the court is under charge of commission of any
29 crime.

30 “(8) The provisions of subsection (1)(c) or (d) of this section do not apply

1 to an arrest or citation for driving while under the influence of intoxicants
2 if the charge is dismissed as a result of the person's successful completion
3 of a diversion agreement described in ORS 813.200.

4 “(9) The provisions of subsection (1) of this section apply to convictions,
5 arrests, citations and charges that occurred before, as well as those that
6 occurred after, September 9, 1971. There is no time limit for making an ap-
7 plication.

8 “(10) For purposes of any civil action in which truth is an element of a
9 claim for relief or affirmative defense, the provisions of subsection (3) of this
10 section providing that the conviction, arrest, citation, charge or other pro-
11 ceeding be deemed not to have occurred do not apply and a party may apply
12 to the court for an order requiring disclosure of the official records in the
13 case as may be necessary in the interest of justice.

14 “(11)(a) Upon motion of any prosecutor or defendant in a case involving
15 records sealed under this section, supported by affidavit showing good cause,
16 the court with jurisdiction may order the reopening and disclosure of any
17 records sealed under this section for the limited purpose of assisting the in-
18 vestigation of the movant. However, such an order has no other effect on the
19 orders setting aside the conviction or the arrest, citation or charge record.

20 “(b) Notwithstanding paragraph (a) of this subsection, when an arrest,
21 citation or charge described in subsection (1)(c) of this section is set aside,
22 a prosecuting attorney may, for the purpose of initiating a criminal pro-
23 ceeding within the statute of limitations, unseal the records sealed under
24 this section by notifying the court with jurisdiction over the charge, record
25 of arrest or citation. The prosecuting attorney shall notify the person who
26 is the subject of the records of the unsealing under this paragraph by sending
27 written notification to the person's last known address.

28 “(12) The State Court Administrator shall create forms to be used
29 throughout the state for motions and proposed orders described in this sec-
30 tion.

1 “(13) As used in this section:

2 “(a) ‘Affidavit’ includes a declaration under penalty of perjury.

3 “(b) ‘Sex crime’ has the meaning given that term in ORS 163A.005.

4
5 **“(Other Amendments Related to Expungement)”**

6
7 **“SECTION 56.** ORS 135.050 is amended to read:

8 “135.050. (1) Suitable counsel for a defendant shall be appointed by a
9 municipal, county or justice court if:

10 “(a) The defendant is before a court on a matter described in subsection
11 (5) of this section;

12 “(b) The defendant requests aid of counsel;

13 “(c) The defendant provides to the court a written and verified financial
14 statement; and

15 “(d) It appears to the court that the defendant is financially unable to
16 retain adequate representation without substantial hardship in providing
17 basic economic necessities to the defendant or the defendant’s dependent
18 family.

19 “(2) Suitable counsel for a defendant shall be appointed by a circuit court
20 if:

21 “(a) The defendant is before the court on a matter described in subsection
22 (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
25 statement; and

26 “(d)(A) The defendant is determined to be financially eligible under ORS
27 151.485 and the standards established by the Oregon Public Defense Com-
28 mission under ORS 151.216; or

29 “(B) The court finds, on the record, substantial and compelling reasons
30 why the defendant is financially unable to retain adequate representation

1 without substantial hardship in providing basic economic necessities to the
2 defendant or the defendant's dependent family despite the fact that the de-
3 fendant does not meet the financial eligibility standards established by the
4 commission.

5 “(3) Appointed counsel may not be denied to any defendant merely be-
6 cause the defendant's friends or relatives have resources adequate to retain
7 counsel or because the defendant has deposited or is capable of depositing
8 security for release. However, appointed counsel may be denied to a defend-
9 ant if the defendant's spouse has adequate resources which the court deter-
10 mines should be made available to retain counsel.

11 “(4) The defendant's financial statement under subsection (1) or (2) of this
12 section shall include, but not be limited to:

13 “(a) A list of bank accounts in the name of defendant or defendant's
14 spouse, and the balance in each;

15 “(b) A list of defendant's interests in real property and those of
16 defendant's spouse;

17 “(c) A list of automobiles and other personal property of significant value
18 belonging to defendant or defendant's spouse;

19 “(d) A list of debts in the name of defendant or defendant's spouse, and
20 the total of each; and

21 “(e) A record of earnings and other sources of income in the name of de-
22 fendant or defendant's spouse, and the total of each.

23 “(5) Counsel must be appointed for a defendant who meets the require-
24 ments of subsection (1) or (2) of this section and who is before a court on
25 any of the following matters:

26 “(a) Charged with a crime.

27 “(b) For a hearing to determine whether an enhanced sentence should be
28 imposed when such proceedings may result in the imposition of a felony
29 sentence.

30 “(c) For extradition proceedings under the provisions of the Uniform

1 Criminal Extradition Act.

2 “(d) For any proceeding concerning an order of probation, including but
3 not limited to the revoking or amending thereof.

4 “(6) Unless otherwise ordered by the court, the appointment of counsel
5 under this section shall continue during all criminal proceedings resulting
6 from the defendant’s arrest through acquittal or the imposition of punish-
7 ment. The court having jurisdiction of the case may not substitute one ap-
8 pointed counsel for another except pursuant to the policies, procedures,
9 standards and guidelines of the Oregon Public Defense Commission under
10 ORS 151.216.

11 “(7) If, at any time after the appointment of counsel, the court having
12 jurisdiction of the case finds that the defendant is financially able to obtain
13 counsel, the court may terminate the appointment of counsel. If, at any time
14 during criminal proceedings, the court having jurisdiction of the case finds
15 that the defendant is financially unable to pay counsel whom the defendant
16 has retained, the court may appoint counsel as provided in this section.

17 “(8)(a) **Except as provided in paragraph (b) of this subsection,** the
18 court may order the defendant in a circuit court to pay to the Public Defense
19 Services Account established by ORS 151.225, through the clerk of the court,
20 in full or in part the administrative costs of determining the eligibility of
21 the defendant for appointed counsel and the costs of the legal and other
22 services that are related to the provision of appointed counsel under ORS
23 151.487.

24 “(b) **A court may not enter an order described in paragraph (a) of**
25 **this subsection when the defendant is charged only with unlawful**
26 **possession of a controlled substance constituting a drug enforcement**
27 **misdemeanor as described in section 35 of this 2024 Act.**

28 “(9) In addition to any criminal prosecution, a civil proceeding may be
29 initiated by any public body which has expended moneys for the defendant’s
30 legal assistance within two years of judgment if the defendant was not

1 qualified in accordance with subsection (1) or (2) of this section for legal
2 assistance.

3 “(10) The civil proceeding shall be subject to the exemptions from exe-
4 cution as provided for by law.

5 “(11) As used in this section unless the context requires otherwise,
6 ‘counsel’ includes a legal advisor appointed under ORS 135.045.

7

8 **“(Repealing Class E Violation Provisions)”**

9

10 **“SECTION 57.** ORS 51.050 is amended to read:

11 “51.050. (1) Except as otherwise provided in this section, in addition to
12 the criminal jurisdiction of justice courts already conferred upon and exer-
13 cised by them, justice courts have jurisdiction of all offenses committed or
14 triable in their respective counties. The jurisdiction conveyed by this section
15 is concurrent with any jurisdiction that may be exercised by a circuit court
16 or municipal court.

17 “(2) In any justice court that has not become a court of record under ORS
18 51.025, a defendant charged with a misdemeanor shall be notified immediately
19 after entering a plea of not guilty of the right of the defendant to have the
20 matter transferred to the circuit court for the county where the justice court
21 is located. The election shall be made within 10 days after the plea of not
22 guilty is entered, and the justice shall immediately transfer the case to the
23 appropriate court.

24 “(3) A justice court does not have jurisdiction over the trial of any felony
25 or a designated drug-related misdemeanor as defined in ORS 423.478. [*A jus-*
26 *tice court does not have jurisdiction over Class E violations.*] Except as pro-
27 vided in ORS 51.037, a justice court does not have jurisdiction over offenses
28 created by the charter or ordinance of any city.

29 **“SECTION 58.** ORS 137.300 is amended to read:

30 “137.300. (1) The Criminal Fine Account is established in the General

1 Fund. Except as otherwise provided by law, all amounts collected in state
2 courts as monetary obligations in criminal actions shall be deposited by the
3 courts in the account. All moneys in the account are continuously appro-
4 priated to the Department of Revenue to be distributed by the Department
5 of Revenue as provided in this section. The Department of Revenue shall
6 keep a record of moneys transferred into and out of the account.

7 “(2) The Legislative Assembly shall first allocate moneys from the Crim-
8 inal Fine Account for the following purposes, in the following order of pri-
9 ority:

10 “(a) Allocations for public safety standards, training and facilities.

11 “(b) Allocations for criminal injuries compensation and assistance to
12 victims of crime and children reasonably suspected of being victims of crime.

13 “(c) Allocations for the forensic services provided by the Oregon State
14 Police, including, but not limited to, services of the Chief Medical Examiner.

15 “(d) Allocations for the maintenance and operation of the Law Enforce-
16 ment Data System.

17 “(3) After making allocations under subsection (2) of this section, the
18 Legislative Assembly shall allocate moneys from the Criminal Fine Account
19 for the following purposes:

20 “(a) Allocations to the Law Enforcement Medical Liability Account es-
21 tablished under ORS 414.815.

22 “(b) Allocations to the State Court Facilities and Security Account es-
23 tablished under ORS 1.178.

24 “(c) Allocations to the Department of Corrections for the purpose of
25 planning, operating and maintaining county juvenile and adult corrections
26 programs and facilities and drug and alcohol programs.

27 “(d) Allocations to the Oregon Health Authority for the purpose of grants
28 under ORS 430.345 for the establishment, operation and maintenance of al-
29 cohool and drug abuse prevention, early intervention and treatment services
30 provided through a county.

1 “(e) Allocations to the Oregon State Police for the purpose of the
2 enforcement of the laws relating to driving under the influence of
3 intoxicants.

4 “(f) Allocations to the Arrest and Return Account established under ORS
5 133.865.

6 “(g) Allocations to the Intoxicated Driver Program Fund established un-
7 der ORS 813.270.

8 “(h) Allocations to the State Court Technology Fund established under
9 ORS 1.012.

10 “[~~(4)~~ *Notwithstanding subsections (2) and (3) of this section, the Legislative*
11 *Assembly shall allocate all moneys deposited into the Criminal Fine Account*
12 *as payment of fines on Class E violations to the Drug Treatment and Recovery*
13 *Services Fund established under ORS 430.384.]*

14 “[~~(5)~~ **(4)** It is the intent of the Legislative Assembly that allocations from
15 the Criminal Fine Account under subsection (3) of this section be consistent
16 with historical funding of the entities, programs and accounts listed in sub-
17 section (3) of this section from monetary obligations imposed in criminal
18 proceedings. Amounts that are allocated under subsection (3)(c) of this sec-
19 tion shall be distributed to counties based on the amounts that were trans-
20 ferred to counties by circuit courts during the 2009-2011 biennium under the
21 provisions of ORS 137.308, as in effect January 1, 2011.

22 “[~~(6)~~ **(5)** Moneys in the Criminal Fine Account may not be allocated for
23 the payment of debt service obligations.

24 “[~~(7)~~ **(6)** The Department of Revenue shall deposit in the General Fund
25 all moneys remaining in the Criminal Fine Account after the distributions
26 listed in subsections (2)[,] **and** (3) [*and (4)*] of this section have been made.

27 “[~~(8)~~ **(7)** The Department of Revenue shall establish by rule a process for
28 distributing moneys in the Criminal Fine Account. The department may not
29 distribute more than one-eighth of the total biennial allocation to an entity
30 during a calendar quarter.

1 **SECTION 59.** ORS 153.012 is amended to read:

2 “153.012. Violations are classified for the purpose of sentencing into the
3 following categories:

4 “(1) Class A violations.

5 “(2) Class B violations.

6 “(3) Class C violations.

7 “(4) Class D violations.

8 “[(5) *Class E violations.*]

9 “[(6)] (5) Unclassified violations as described in ORS 153.015.

10 “[(7)] (6) Specific fine violations as described in ORS 153.015.

11 **SECTION 60.** ORS 153.018 is amended to read:

12 “153.018. (1) The penalty for committing a violation is a fine. The law
13 creating a violation may impose other penalties in addition to a fine but may
14 not impose a term of imprisonment.

15 “(2) Except as otherwise provided by law, the maximum fine for a vio-
16 lation committed by an individual is:

17 “(a) \$2,000 for a Class A violation.

18 “(b) \$1,000 for a Class B violation.

19 “(c) \$500 for a Class C violation.

20 “(d) \$250 for a Class D violation.

21 “[(e) *\$100 for a Class E violation.*]

22 “[(f)] (e) \$2,000 for a specific fine violation, or the maximum amount
23 otherwise established by law for the specific fine violation.

24 “(3) If a special corporate fine is specified in the law creating the vio-
25 lation, the sentence to pay a fine shall be governed by the law creating the
26 violation. Except as otherwise provided by law, if a special corporate fine is
27 not specified in the law creating the violation, the maximum fine for a vio-
28 lation committed by a corporation is:

29 “(a) \$4,000 for a Class A violation.

30 “(b) \$2,000 for a Class B violation.

1 “(c) \$1,000 for a Class C violation.

2 “(d) \$500 for a Class D violation.

3 **“SECTION 61.** ORS 153.019 is amended to read:

4 “153.019. (1) Except as provided in ORS 153.020, [*153.062 and 430.391,*] the
5 presumptive fines for violations are:

6 “(a) \$440 for a Class A violation.

7 “(b) \$265 for a Class B violation.

8 “(c) \$165 for a Class C violation.

9 “(d) \$115 for a Class D violation.

10 “[*e*] \$100 for a Class E violation.]

11 “(2) The presumptive fine for a specific fine violation is:

12 “(a) The amount specified by statute as the presumptive fine for the vio-
13 lation; or

14 “(b) An amount equal to the greater of 20 percent of the maximum fine
15 prescribed for the violation, or the minimum fine prescribed by statute for
16 the violation.

17 “(3) Any surcharge imposed under ORS 1.188 shall be added to and made
18 a part of the presumptive fine.

19 **“SECTION 62.** ORS 153.021 is amended to read:

20 “153.021. (1) Unless a specific minimum fine is prescribed for a violation,
21 and except as otherwise provided by law, the minimum fine a court shall
22 impose for a violation that is subject to the presumptive fines established
23 by ORS 153.019 (1) or 153.020 are as follows:

24 “(a) \$225 for a Class A violation.

25 “(b) \$135 for a Class B violation.

26 “(c) \$85 for a Class C violation.

27 “(d) \$65 for a Class D violation.

28 “[*e*] \$45 for a Class E violation.]

29 “(2) Notwithstanding subsection (1) of this section, a court may waive
30 payment of the minimum fine described in this section, in whole or in part,

1 if the court determines that requiring payment of the minimum fine would
2 be inconsistent with justice in the case. In making its determination under
3 this subsection, the court shall consider:

4 “(a) The financial resources of the defendant and the burden that payment
5 of the minimum fine would impose, with due regard to the other obligations
6 of the defendant; and

7 “(b) The extent to which that burden could be alleviated by allowing the
8 defendant to pay the fine in installments or subject to other conditions set
9 by the court.

10 “(3) This section does not affect the manner in which a court imposes or
11 reduces monetary obligations other than fines.

12 “(4) The Department of Revenue or Secretary of State may audit any
13 court to determine whether the court is complying with the requirements of
14 this section. In addition, the Department of Revenue or Secretary of State
15 may audit any court to determine whether the court is complying with the
16 requirements of ORS 137.145 to 137.159 and 153.640 to 153.680. The Depart-
17 ment of Revenue or Secretary of State may file an action under ORS 34.105
18 to 34.240 to enforce the requirements of this section and of ORS 137.145 to
19 137.159 and 153.640 to 153.680.

20 **“SECTION 63.** ORS 153.064 is amended to read:

21 “153.064. (1) Except as provided in subsection (2) of this section, a warrant
22 for arrest may be issued against a person who fails to make a first appear-
23 ance on a citation for a violation, or fails to appear at any other subsequent
24 time set for trial or other appearance, only if the person is charged with
25 failure to appear in a violation proceeding under ORS 153.992.

26 “(2) If a person fails to make a first appearance on a citation for a vio-
27 lation [*other than a Class E violation*], or fails to appear at any other sub-
28 sequent time set for trial or other appearance on a violation [*other than a*
29 *Class E violation*], the court may issue an order that requires the defendant
30 to appear and show cause why the defendant should not be held in contempt.

1 The show cause order may be mailed to the defendant by certified mail, re-
2 turn receipt requested. If service cannot be accomplished by mail, the de-
3 fendant must be personally served. If the defendant is served and fails to
4 appear at the time specified in the show cause order, the court may issue
5 an arrest warrant for the defendant for the purpose of bringing the defendant
6 before the court.

7 **“SECTION 64.** ORS 153.992 is amended to read:

8 “153.992. (1) A person commits the offense of failure to appear in a vio-
9 lation proceeding if the person has been served with a citation issued under
10 this chapter for a violation [*other than a Class E violation*] and the person
11 knowingly fails to do any of the following:

12 “(a) Make a first appearance in the manner required by ORS 153.061
13 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
19 courts and justice courts over all violations committed or triable in the city
20 where the court is located.

21 “(2) Except as provided in subsections (3) and (4) of this section, munici-
22 pal courts have concurrent jurisdiction with circuit courts and justice courts
23 over misdemeanors committed or triable in the city. Municipal courts may
24 exercise the jurisdiction conveyed by this section without a charter provision
25 or ordinance authorizing that exercise.

26 “(3) Municipal courts have no jurisdiction over felonies[,] **or** designated
27 drug-related misdemeanors as defined in ORS 423.478 [*or Class E violations*].

28 “(4) A city may limit the exercise of jurisdiction over misdemeanors by
29 a municipal court under this section by the adoption of a charter provision
30 or ordinance, except that municipal courts must retain concurrent jurisdic-

1 tion with circuit courts over:

2 “(a) Misdemeanors created by the city’s own charter or by ordinances
3 adopted by the city, as provided in ORS 3.132; and

4 “(b) Traffic crimes as defined by ORS 801.545.

5 “(5) Subject to the powers and duties of the Attorney General under ORS
6 180.060, the city attorney has authority to prosecute a violation of any of-
7 fense created by statute that is subject to the jurisdiction of a municipal
8 court, including any appeal, if the offense is committed or triable in the city.
9 The prosecution shall be in the name of the state. The city attorney shall
10 have all powers of a district attorney in prosecutions under this subsection.

11 **“SECTION 66.** ORS 419C.370 is amended to read:

12 “419C.370. (1) The juvenile court may enter an order directing that all
13 cases involving:

14 “(a) Violation of a law or ordinance relating to the use or operation of
15 a motor vehicle, boating laws or game laws be waived to criminal or mu-
16 nicipal court;

17 “(b) An offense classified as a violation [*other than a Class E violation*]
18 under the laws of this state or a political subdivision of this state be waived
19 to municipal court if the municipal court has agreed to accept jurisdiction;
20 and

21 “(c) A misdemeanor that entails theft, destruction, tampering with or
22 vandalism of property be waived to municipal court if the municipal court
23 has agreed to accept jurisdiction.

24 “(2) Cases waived under subsection (1) of this section are subject to the
25 following:

26 “(a) That the criminal or municipal court prior to hearing a case, other
27 than a case involving a parking violation, in which the defendant is or ap-
28 pears to be under 18 years of age notify the juvenile court of that fact; and

29 “(b) That the juvenile court may direct that any such case be waived to
30 the juvenile court for further proceedings.

1 “(3)(a) When a person who has been waived under subsection (1)(c) of this
2 section is convicted of a property offense, the municipal court may impose
3 any sanction authorized for the offense except for incarceration. The munic-
4 ipal court shall notify the juvenile court of the disposition of the case.

5 “(b) When a person has been waived under subsection (1) of this section
6 and fails to appear as summoned or is placed on probation and is alleged to
7 have violated a condition of the probation, the juvenile court may recall the
8 case to the juvenile court for further proceedings. When a person has been
9 returned to juvenile court under this paragraph, the juvenile court may
10 proceed as though the person had failed to appear as summoned to the ju-
11 venile court or had violated a juvenile court probation order under ORS
12 419C.446.

13 “(4) Records of cases waived under subsection (1)(c) of this section are
14 juvenile records for purposes of expunction under ORS 419A.260 to 419A.271.

15 **“SECTION 67.** ORS 430.384 is amended to read:

16 “430.384. (1) The Drug Treatment and Recovery Services Fund is estab-
17 lished in the State Treasury, separate and distinct from the General Fund.
18 Interest earned by the Drug Treatment and Recovery Services Fund shall be
19 credited to the fund.

20 “(2) The Drug Treatment and Recovery Services Fund shall consist of:

21 “(a) Moneys deposited into the fund pursuant to ORS 305.231;

22 “(b) Moneys appropriated or otherwise transferred to the fund by the
23 Legislative Assembly;

24 “(c) Moneys allocated from the Oregon Marijuana Account, pursuant to
25 ORS 475C.726 (3)(b); **and**

26 “[*(d) Moneys allocated from the Criminal Fine Account pursuant to ORS*
27 *137.300 (4); and*]

28 “[*(e)*] **(d)** All other moneys deposited into the fund from any source.

29 “(3) Moneys in the fund shall be continuously appropriated to the Oregon
30 Health Authority for the purposes set forth in ORS 430.389.

1 “(4)(a) Pursuant to subsection (2)(b) of this section, the Legislative As-
2 sembly shall appropriate or transfer to the fund an amount sufficient to fully
3 fund the grants program required by ORS 430.389.

4 “(b) The total amount deposited and transferred into the fund shall not
5 be less than \$57 million for the first year ORS 430.383 to 430.390 and 430.394
6 are in effect.

7 “(c) In each subsequent year, the minimum transfer amount set forth in
8 paragraph (b) of this subsection shall be increased by not less than the sum
9 of:

10 “(A) \$57 million multiplied by the percentage, if any, by which the
11 monthly averaged U.S. City Average Consumer Price Index for the 12 con-
12 secutive months ending August 31 of the prior calendar year exceeds the
13 monthly index for the fourth quarter of the calendar year 2020; and

14 “(B) The annual increase, if any, in moneys distributed pursuant to ORS
15 475C.726 (3)(b).

16 **“SECTION 68.** ORS 430.389 is amended to read:

17 “430.389. (1) The Oversight and Accountability Council shall approve
18 grants and funding provided by the Oregon Health Authority in accordance
19 with this section to implement Behavioral Health Resource Networks and
20 increase access to community care. A Behavioral Health Resource Network
21 is an entity or collection of entities that individually or jointly provide some
22 or all of the services described in subsection (2)(e) of this section.

23 “(2)(a) The authority shall establish an equitable:

24 “(A) Process for applying for grants and funding by agencies or organ-
25 izations, whether government or community based, to establish Behavioral
26 Health Resource Networks for the purposes of immediately screening the
27 acute needs of individuals with substance use, including those who also have
28 a mental illness, and assessing and addressing any ongoing needs through
29 ongoing case management, harm reduction, treatment, housing and linkage
30 to other care and services.

1 “(B) Evaluation process to assess the effectiveness of Behavioral Health
2 Resource Networks that receive grants or funding.

3 “(b) Recipients of grants or funding must be licensed, certified or cre-
4 dentialled by the state, including certification under ORS 743A.168 (9), or
5 meet criteria prescribed by rule by the authority under ORS 430.390. A re-
6 cipient of a grant or funding under this subsection may not use the grant
7 or funding to supplant the recipient’s existing funding.

8 “(c) The council and the authority shall ensure that residents of each
9 county have access to all of the services described in paragraph (e) of this
10 subsection.

11 “(d) Applicants for grants and funding may apply individually or jointly
12 with other network participants to provide services in one or more counties.

13 “(e) A network must have the capacity to provide the following services
14 and any other services specified by the authority by rule but no individual
15 participant in a network is required to provide all of the services:

16 “(A) Screening by certified addiction peer support or wellness specialists
17 or other qualified persons designated by the council to determine a client’s
18 need for immediate medical or other treatment to determine what acute care
19 is needed and where it can be best provided, identify other needs and link
20 the client to other appropriate local or statewide services, including treat-
21 ment for substance use and coexisting health problems, housing, employment,
22 training and child care. Networks shall provide this service 24 hours a day,
23 seven days a week, every calendar day of the year through a telephone line
24 or other means. Networks may rely on the statewide telephone hotline es-
25 tablished by the authority under ORS 430.391 for telephone screenings during
26 nonbusiness hours such as evenings, weekends and holidays. Notwithstand-
27 ing paragraph (c) of this subsection, only one grantee in each network within
28 each county is required to provide the screenings described in this subpara-
29 graph.

30 “(B) Comprehensive behavioral health needs assessment, including a sub-

1 stance use screening by a certified alcohol and drug counselor or other cre-
2 dentialled addiction treatment professional. The assessment shall prioritize
3 the self-identified needs of a client.

4 “(C) Individual intervention planning, case management and connection
5 to services. If, after the completion of a screening, a client indicates a desire
6 to address some or all of the identified needs, a case manager shall work
7 with the client to design an individual intervention plan. The plan must ad-
8 dress the client’s need for substance use treatment, coexisting health prob-
9 lems, housing, employment and training, child care and other services.

10 “(D) Ongoing peer counseling and support from screening and assessment
11 through implementation of individual intervention plans as well as peer
12 outreach workers to engage directly with marginalized community members
13 who could potentially benefit from the network’s services.

14 “(E) Assessment of the need for, and provision of, mobile or virtual out-
15 reach services to:

16 “(i) Reach clients who are unable to access the network; and

17 “(ii) Increase public awareness of network services.

18 “(F) Harm reduction services and information and education about harm
19 reduction services.

20 “(G) Low-barrier substance use treatment.

21 “(H) Transitional and supportive housing for individuals with substance
22 use.

23 “(f) If an applicant for a grant or funding under this subsection is unable
24 to provide all of the services described in paragraph (e) of this subsection,
25 the applicant may identify how the applicant intends to partner with other
26 entities to provide the services, and the authority and the council may fa-
27 cilitate collaboration among applicants.

28 “(g) All services provided through the networks must be evidence-
29 informed, trauma-informed, culturally specific, linguistically responsive,
30 person-centered and nonjudgmental. The goal shall be to address effectively

1 the client's substance use and any other social determinants of health.

2 “(h) The networks must be adequately staffed to address the needs of
3 people with substance use within their regions as prescribed by the authority
4 by rule, including, at a minimum, at least one person in each of the following
5 categories:

6 “(A) Alcohol and drug counselor certified by the authority or other cre-
7 dentialized addiction treatment professional;

8 “(B) Case manager;

9 “(C) Addiction peer support specialist certified by the authority;

10 “(D) Addiction peer wellness specialist certified by the authority;

11 “(E) Recovery mentor, certified by the Mental Health and Addiction
12 Certification Board of Oregon or its successor organization; and

13 “(F) Youth support specialist certified by the authority.

14 “(i) Verification of a screening by a certified addiction peer support spe-
15 cialist, wellness specialist or other person in accordance with paragraph
16 (e)(A) of this subsection shall promptly be provided to the client by the en-
17 tity conducting the screening. If the client executes a valid release of in-
18 formation, the entity shall provide verification of the screening to the
19 authority or a contractor of the authority and the authority or the
20 authority's contractor shall forward the verification to [*the court, in the*
21 *manner prescribed by the Chief Justice of the Supreme Court, to satisfy the*
22 *conditions for dismissal under ORS 153.062 or 475.237*] **any entity the client**
23 **has authorized to receive the verification.**

24 “(3)(a) If moneys remain in the Drug Treatment and Recovery Services
25 Fund after the council has committed grants and funding to establish be-
26 havioral health resource networks serving every county in this state, the
27 council shall authorize grants and funding to other agencies or organiza-
28 tions, whether government or community based, and to the nine federally
29 recognized tribes in this state and service providers that are affiliated with
30 the nine federally recognized tribes in this state to increase access to one

1 or more of the following:

2 “(A) Low-barrier substance use treatment that is evidence-informed,
3 trauma-informed, culturally specific, linguistically responsive, person-
4 centered and nonjudgmental;

5 “(B) Peer support and recovery services;

6 “(C) Transitional, supportive and permanent housing for persons with
7 substance use;

8 “(D) Harm reduction interventions including, but not limited to, overdose
9 prevention education, access to short-acting opioid antagonists, as defined in
10 ORS 689.800, and sterile syringes and stimulant-specific drug education and
11 outreach; or

12 “(E) Incentives and supports to expand the behavioral health workforce
13 to support the services delivered by behavioral health resource networks and
14 entities receiving grants or funding under this subsection.

15 “(b) A recipient of a grant or funding under this subsection may not use
16 the grant or funding to supplant the recipient’s existing funding.

17 “(4) In awarding grants and funding under subsections (1) and (3) of this
18 section, the council shall:

19 “(a) Distribute grants and funding to ensure access to:

20 “(A) Historically underserved populations; and

21 “(B) Culturally specific and linguistically responsive services.

22 “(b) Consider any inventories or surveys of currently available behavioral
23 health services.

24 “(c) Consider available regional data related to the substance use treat-
25 ment needs and the access to culturally specific and linguistically responsive
26 services in communities in this state.

27 “(d) Consider the needs of residents of this state for services, supports and
28 treatment at all ages.

29 “(5) The council shall require any government entity that applies for a
30 grant to specify in the application details regarding subgrantees and how the

1 government entity will fund culturally specific organizations and culturally
2 specific services. A government entity receiving a grant must make an ex-
3 plicit commitment not to supplant or decrease any existing funding used to
4 provide services funded by the grant.

5 “(6) In determining grants and funding to be awarded, the council may
6 consult the comprehensive addiction, prevention, treatment and recovery
7 plan established by the Alcohol and Drug Policy Commission under ORS
8 430.223 and the advice of any other group, agency, organization or individual
9 that desires to provide advice to the council that is consistent with the terms
10 of this section.

11 “(7) Services provided by grantees, including services provided by a Be-
12 havioral Health Resource Network, shall be free of charge to the clients re-
13 ceiving the services. Grantees in each network shall seek reimbursement
14 from insurance issuers, the medical assistance program or any other third
15 party responsible for the cost of services provided to a client and grants and
16 funding provided by the council or the authority under this section may be
17 used for copayments, deductibles or other out-of-pocket costs incurred by the
18 client for the services.

19 “(8) Subsection (7) of this section does not require the medical assistance
20 program to reimburse the cost of services for which another third party is
21 responsible in violation of 42 U.S.C. 1396a(25).

22 **“SECTION 69.** ORS 430.392 is amended to read:

23 “430.392. (1) The Division of Audits of the office of the Secretary of State
24 shall conduct performance audits and financial reviews as provided in this
25 section, regarding the uses of the Drug Treatment and Recovery Services
26 Fund and the effectiveness of the fund in achieving the purposes of the fund
27 and the policy objectives of ORS 430.383. Recipients of grants or funds under
28 ORS 430.389 shall keep accurate books, records and accounts that are subject
29 to inspection and audit by the division.

30 “(2) The division shall monitor and report on the progress in implement-

1 ing any recommendations made in the audit or financial review. The division
2 shall follow up on recommendations as part of recurring audit work or as
3 an activity separate from other audit activity. When following up on recom-
4 mendations, the division may request from the appropriate agency evidence
5 of implementation.

6 “(3) The audits set forth in this section shall be conducted pursuant to
7 the provisions of ORS chapter 297, except to the extent any provision of ORS
8 chapter 297 conflicts with any provision of ORS 293.665 and 305.231 and
9 430.383 to 430.390 and 430.394, in which case the provisions of ORS 293.665
10 and 305.231 and 430.383 to 430.390 and 430.394 shall control.

11 “(4) No later than December 31, 2023, the division shall perform a:

12 “(a) Real-time audit, as prescribed by the division, which shall include an
13 assessment of the relationship between the Oversight and Accountability
14 Council and the Oregon Health Authority, the relationship between the
15 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
17 limited to assessing:

18 “(A) Whether the organizational structure of the council contains con-
19 flicts or problems.

20 “(B) Whether the rules adopted by the council are clear and functioning
21 properly.

22 “(C) Whether the council has sufficient authority and independence to
23 achieve the council’s mission.

24 “(D) Whether the authority is fulfilling the authority’s duties under ORS
25 430.384, 430.387, 430.390 and 430.391.

26 “(E) Whether there are conflicts of interest in the process of awarding
27 grants or funding.

28 “(F) Whether there are opportunities to expand collaboration between the
29 council and state agencies.

30 “(G) Whether barriers exist in data collection and evaluation mechanisms.

1 “(H) Who is providing the data.

2 “(I) Other areas identified by the division.

3 “(b) Financial review, which shall include an assessment of the following:

4 “(A) Whether grants and funding are going to organizations that are

5 culturally responsive and linguistically specific, including an assessment of:

6 “(i) The barriers that exist for grant and funding applicants who are

7 Black, Indigenous or People of Color.

8 “(ii) The applicants that were denied and why.

9 “(iii) Whether grants and other funding are being disbursed based on the

10 priorities specified in ORS 430.389.

11 “(iv) For government entities receiving grants or funding under ORS

12 430.389, the government entities’ subgrantees and whether the governmental

13 entity supplanted or decreased any local funding dedicated to the same ser-

14 vices after receiving grants or funds under ORS 430.389.

15 “(v) What proportion of grants or funds received by grantees and others

16 under ORS 430.389, was devoted to administrative costs.

17 “(B) The organizations and agencies receiving grants or funding under

18 ORS 430.389 and:

19 “(i) Which of the organizations and agencies are Behavioral Health Re-

20 source Network entities.

21 “(ii) The amount each organization and agency received.

22 “(iii) The total number of organizations and agencies that applied for

23 grants or funding.

24 “(iv) The amount of moneys from the fund that were used to administer

25 the programs selected by the council.

26 “(v) The moneys that remained in the Drug Treatment and Recovery

27 Services Fund after grants and funding were disbursed.

28 “(5) No later than December 31, 2025, the division shall conduct a per-

29 formance audit, which must include an assessment of the following:

30 “(a) All relevant data regarding the implementation of ORS 153.062 and

1 430.391, including demographic information on individuals who receive cita-
2 tions subject to ORS 153.062 and 430.391 and whether the citations resulted
3 in connecting the individuals with treatment.

4 “(b) The functioning of:

5 “[*(A)*] *Law enforcement and the courts in relation to Class E violation ci-*
6 *tations;*]

7 “[*(B)*] **(A)** The telephone hotline operated by the authority;

8 “[*(C)*] **(B)** Entities providing verification of screenings under ORS 430.389;
9 and

10 “[*(D)*] **(C)** The grants and funding systems between the council, the au-
11 thority and recipients of grants or funding, including by gathering informa-
12 tion about which entities are receiving grants or funding and what the
13 grants or funding are used for, the process of applying for grants or funding
14 and whether the process is conducive to obtaining qualified applicants for
15 grants or funding who are from communities of color.

16 “(c) Disparities shown by demographic data and whether the citation data
17 reveals a disproportionate use of citations in communities most impacted by
18 the war on drugs.

19 “(d) Whether ORS 153.062, 430.389 and 430.391 reduce the involvement in
20 the criminal justice system of individuals with substance use.

21 “(e) Training opportunities provided to law enforcement officials regard-
22 ing services that are available and how to connect individuals to the ser-
23 vices.

24 “(f) The efficacy of issuing citations as a method of connecting individuals
25 to services.

26 “(g) The role of the implementation of ORS 430.383 to 430.390 and 430.394
27 in reducing overdose rates.

28 “(h) Outcomes for individuals receiving treatment and other social ser-
29 vices under ORS 430.389, including, but not limited to, the following:

30 “(A) Whether access to care increased since December 3, 2020, and, if data

1 is available, whether, since December 3, 2020:

2 “(i) The number of drug and alcohol treatment service providers in-
3 creased.

4 “(ii) The number of culturally specific providers increased.

5 “(iii) Access to harm reduction services has increased.

6 “(iv) More individuals are accessing treatment than they were before
7 December 3, 2020.

8 “(v) Access to housing for individuals with substance use has increased.

9 “(B) Data on Behavioral Health Resource Networks and recipients of
10 grants and funding under ORS 430.389, including:

11 “(i) The outcomes of each network or recipient, including but not limited
12 to the number of clients with substance use receiving services from each
13 network or recipient, the average duration of client participation and client
14 outcomes.

15 “(ii) The number of individuals seeking assistance from the network or
16 recipients who are denied or not connected to substance use treatment and
17 other services, and the reasons for the denials.

18 “(iii) The average time it takes for clients to access services and fulfill
19 their individual intervention plan and the reason for any delays, such as
20 waiting lists at referred services.

21 “(iv) Whether average times to access services to which clients are re-
22 ferred, such as housing or medically assisted treatment, have decreased over
23 time since December 3, 2020.

24 “(v) Demographic data on clients served by Behavioral Health Resource
25 Networks, including self-reported demographic data on race, ethnicity,
26 gender and age.

27 “(i) Each recipient of a grant or funding.

28 “(j) Other areas identified by the division for ascertaining best practices
29 for overdose prevention.

30 “(6) The division shall conduct periodic performance audits and financial

1 reviews pursuant to the division’s annual audit plan and taking into con-
2 sideration the risks of the program.

3 **“SECTION 70.** ORS 475.235 is amended to read:

4 “475.235. (1) It is not necessary for the state to negate any exemption or
5 exception in ORS 475.005 to 475.285 and 475.752 to 475.980 in any complaint,
6 information, indictment or other pleading or in any trial, hearing or other
7 proceeding under ORS 475.005 to 475.285 and 475.752 to 475.980. The burden
8 of proof of any exemption or exception is upon the person claiming it.

9 “(2) In the absence of proof that a person is the duly authorized holder
10 of an appropriate registration or order form issued under ORS 475.005 to
11 475.285 and 475.752 to 475.980, the person is presumed not to be the holder
12 of the registration or form. The burden of proof is upon the person to rebut
13 the presumption.

14 “(3)(a) When a controlled substance is at issue in a criminal proceeding
15 before a grand jury, at a preliminary hearing, in a proceeding on a district
16 attorney’s information[, *during a proceeding on a Class E violation*] or for
17 purposes of an early disposition program, it is prima facie evidence of the
18 identity of the controlled substance if:

19 “(A) A sample of the controlled substance is tested using a presumptive
20 test for controlled substances;

21 “(B) The test is conducted by a law enforcement officer trained to use the
22 test or by a forensic scientist; and

23 “(C) The test is positive for the particular controlled substance.

24 “(b) When the identity of a controlled substance is established using a
25 presumptive test for purposes of a criminal proceeding before a grand jury,
26 a preliminary hearing, a proceeding on a district attorney’s information or
27 an early disposition program, the defendant, upon notice to the district at-
28 torney, may request that the controlled substance be sent to a state police
29 forensic laboratory for analysis. [*The defendant may not make a request under*
30 *this paragraph concerning a controlled substance at issue in a proceeding on*

1 *a Class E violation.*]

2 “(4) Notwithstanding any other provision of law, in all prosecutions in
3 which an analysis of a controlled substance or sample was conducted, a
4 certified copy of the analytical report signed by the director of a state police
5 forensic laboratory or the analyst or forensic scientist conducting the anal-
6 ysis shall be admitted as prima facie evidence of the results of the analytical
7 findings unless the defendant has provided notice of an objection in accord-
8 ance with subsection (5) of this section.

9 “(5) If the defendant intends to object at trial to the admission of a cer-
10 tified copy of an analytical report as provided in subsection (4) of this sec-
11 tion, not less than 15 days prior to trial the defendant shall file written
12 notice of the objection with the court and serve a copy on the district at-
13 torney.

14 “(6) As used in this section:

15 “(a) ‘Analyst’ means a person employed by the Department of State Police
16 to conduct analysis in forensic laboratories established by the department
17 under ORS 181A.150.

18 “(b) ‘Presumptive test’ includes, but is not limited to, chemical tests using
19 Marquis reagent, Duquenois-Levine reagent, Scott reagent system or modi-
20 fied 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 per-
25 mit.

26 “(2) Except as provided in ORS 342.143 (3) or 342.175 (3), a licensing
27 board, commission or agency may not deny, suspend or revoke an occupa-
28 tional or professional license solely for the reason that the applicant or
29 licensee has been convicted of a crime, but it may consider the relationship
30 of the facts which support the conviction and all intervening circumstances

1 to the specific occupational or professional standards in determining the
2 fitness of the person to receive or hold the license. [*There is a rebuttable*
3 *presumption as to each individual applicant or licensee that an existing or*
4 *prior conviction for conduct that has been classified or reclassified as a Class*
5 *E violation does not make an applicant for an occupational or professional li-*
6 *cence or a licensee with an occupational or professional license unfit to receive*
7 *or hold the license.*]

8 “(3) Except as provided in ORS 342.143 (3) and 342.175 (3), a licensing
9 board, commission or agency may deny an occupational or professional li-
10 cense or impose discipline on a licensee based on conduct that is not
11 undertaken directly in the course of the licensed activity, but that is sub-
12 stantially related to the fitness and ability of the applicant or licensee to
13 engage in the activity for which the license is required. In determining
14 whether the conduct is substantially related to the fitness and ability of the
15 applicant or licensee to engage in the activity for which the license is re-
16 quired, the licensing board, commission or agency shall consider the re-
17 lationship of the facts with respect to the conduct and all intervening
18 circumstances to the specific occupational or professional standards. [*There*
19 *is a rebuttable presumption as to each individual applicant or licensee that an*
20 *existing or prior conviction for conduct that has been classified or reclassified*
21 *as a Class E violation is not related to the fitness and ability of the applicant*
22 *or licensee to engage in the activity for which the license is required.*]

23 **“SECTION 72. ORS 153.043, 153.062, 419C.460 and 475.237 are repealed.**

24
25 **“(Operative Dates and Applicability)**

26
27 **“SECTION 73. (1) Sections 34 to 37, 51, 52 and 54 this 2024 Act, the**
28 **amendments to ORS 51.050, 133.060, 135.050, 135.753, 137.225, 137.300,**
29 **153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 221.339, 419C.370, 423.478,**
30 **423.483, 423.525, 430.384, 430.389, 430.392, 475.235, 475.752, 475.814, 475.824,**

1 475.834, 475.854, 475.874, 475.884, 475.894 and 670.280 by sections 38 to 50
2 and 55 to 71 of this 2024 Act and the repeal of ORS 153.043, 153.062,
3 419C.460 and 475.237 by section 72 of this 2024 Act become operative on
4 September 1, 2024.

5 “(2) The Oregon Criminal Justice Commission, the Judicial Depart-
6 ment, the Department of Corrections, law enforcement agencies and
7 district attorneys may take any action before the operative date spec-
8 ified in subsection (1) of this section that is necessary for those enti-
9 ties to exercise, on and after the operative date specified in subsection
10 (1) of this section, all of the powers, duties and functions imposed on
11 the entities under sections 34 to 37, 51, 52 and 54 this 2024 Act, the
12 amendments to ORS 51.050, 133.060, 135.050, 135.753, 137.225, 137.300,
13 153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 221.339, 419C.370, 423.478,
14 423.483, 423.525, 430.384, 430.389, 430.392, 475.235, 475.752, 475.814, 475.824,
15 475.834, 475.854, 475.874, 475.884, 475.894 and 670.280 by sections 38 to 50
16 and 55 to 71 of this 2024 Act and the repeal of ORS 153.043, 153.062,
17 419C.460 and 475.237 by section 72 of this 2024 Act.

18 “SECTION 74. Sections 35, 52 and 54 this 2024 Act, the amendments
19 to ORS 51.050, 135.050, 135.753, 137.300, 153.012, 153.018, 153.019, 153.021,
20 153.064, 153.992, 221.339, 419C.370, 423.478, 423.483, 423.525, 430.384, 430.389,
21 430.392, 475.235, 475.752, 475.814, 475.824, 475.834, 475.854, 475.874, 475.884,
22 475.894 and 670.280 by sections 39 to 50 and 56 to 71 of this 2024 Act and
23 the repeal of ORS 153.043, 153.062, 419C.460 and 475.237 by section 72 of
24 this 2024 Act apply to conduct constituting an offense occurring, or
25 alleged to have occurred, on or after September 1, 2024.

26

27

“DATA TRACKING

28

29 “SECTION 75. (1) For purposes of tracking racial or other demo-
30 graphic disparities in enforcement, the Oregon Criminal Justice Com-

1 mission shall collect and analyze the following data concerning
2 deflections, arrests, charges and convictions for unlawful possession
3 of a controlled substance and delivery of a controlled substance of-
4 fenses:

5 “(a) The date and location of each deflection and arrest;

6 “(b) The specific offense for which each person was arrested,
7 charged or convicted; and

8 “(c) Demographic data for each person deflected, arrested, charged
9 or convicted.

10 “(2) Beginning no later than August 31, 2025, and annually there-
11 after, the commission shall provide a report to the interim committees
12 of the Legislative Assembly related to the judiciary, in the manner
13 described in ORS 192.245, containing an analysis of the data described
14 in this section.

15 “(3) In carrying out the commission’s duties under this section, the
16 commission may use any information concerning deflections obtained
17 as part of carrying out the duties of the commission under section 37
18 of this 2024 Act or as part of the grant program application, monitor-
19 ing and evaluation process described in sections 76 and 77 of this 2024
20 Act.

21 “(4) Data reported under this section shall be used only for statis-
22 tical purposes and not for any other purpose. The data reports may
23 not contain information that reveals the identity of any individual.
24 Data collected by government agencies or held by the Oregon Criminal
25 Justice Commission under this section that may reveal the identity
26 of any individual is exempt from public disclosure in any manner.

27 “(5) The Oregon Criminal Justice Commission may adopt rules to
28 carry out the provisions of this section.

29

30 “OREGON BEHAVIORAL HEALTH DEFLECTION PROGRAM

1 **“SECTION 76. (1) As used in this section, ‘deflection program’**
2 **means a collaborative program between law enforcement agencies and**
3 **behavioral health entities that assists individuals who may have sub-**
4 **stance use disorder, another behavioral health disorder or co-**
5 **occurring disorders, to create community-based pathways to**
6 **treatment, recovery support services, housing, case management or**
7 **other services.**

8 **“(2) The Oregon Behavioral Health Deflection Program is estab-**
9 **lished within the Improving People’s Access to Community-based**
10 **Treatment, Supports and Services Grant Review Committee estab-**
11 **lished under ORS 430.234. The program consists of grants awarded by**
12 **the committee to counties and federally recognized tribal governments**
13 **to fund deflection programs.**

14 **“(3)(a) The purpose of the program described in this section is to:**

15 **“(A) Address the need for more deflection programs to assist indi-**
16 **viduals whose behavioral health conditions, including substance use**
17 **disorder, lead to interactions with law enforcement, incarceration,**
18 **conviction and other engagement with the criminal justice system.**

19 **“(B) Track and report data concerning deflection program outcomes**
20 **in order to determine the best practices for deflection programs within**
21 **this state.**

22 **“(b) ORS 430.230 to 430.236 do not apply to the program described in**
23 **this section.**

24 **“(4)(a) The committee shall develop a grant application process for**
25 **awarding grants under this section.**

26 **“(b) An application for a grant under this section may be submitted**
27 **by a county or the designee of a county, or by a tribal government or**
28 **designee of a tribal government. Only one application per county may**
29 **be submitted, but the application may request funding multiple pro-**
30 **grams within a county.**

1 “(c) Prior to submitting an application for a grant under this sec-
2 tion, the applicant shall coordinate with all partners of the develop-
3 ment and administration of the proposed deflection program to ensure
4 that the partners have the resources necessary to implement the de-
5 flection program. The partners shall include at least a district attor-
6 ney, a law enforcement agency, a community mental health program
7 and a Behavioral Health Resource Network established under ORS
8 430.389. Partners may also include a treatment provider, a local mental
9 health authority, a tribal government, a peer support organization, a
10 court or a local government body.

11 “(d) An application for a grant under this section must contain:

12 “(A) A description of the coordination with program partners re-
13 quired by paragraph (c) of this subsection that has occurred;

14 “(B) A description of the individuals who would be eligible for the
15 program and what qualifies as a successful outcome, formulated in
16 cooperation with the program partners described in paragraph (c) of
17 this subsection;

18 “(C) A description of how the program for which the applicant is
19 seeking funding is culturally and linguistically responsive, trauma-
20 informed and evidence-based;

21 “(D) A description of a plan to address language access barriers
22 when communicating program referral options and program proce-
23 dures to non-English speaking individuals; and

24 “(E) A description of how the program coordinator will communi-
25 cate with program partners concerning persons participating in the
26 program and any other matter necessary for the administration of the
27 program.

28 “(5) To be eligible for funding under this section, a deflection pro-
29 gram:

30 “(a) Must be coordinated by or in consultation with a community

1 **mental health program, a local mental health authority or a federally**
2 **recognized tribal government;**

3 **“(b) Must have a coordinator with the following program coordina-**
4 **tor duties:**

5 **“(A) Convening deflection program partners as needed for the op-**
6 **eration of the program;**

7 **“(B) Managing grant program funds awarded under this section;**
8 **and**

9 **“(C) Tracking and reporting data required by the Oregon Criminal**
10 **Justice Commission under section 37 of this 2024 Act;**

11 **“(c) Must involve the partners described in subsection (4)(c) of this**
12 **section; and**

13 **“(d) May involve a partnership with one or more of the following**
14 **entities:**

15 **“(A) A first responder agency other than a law enforcement agency;**

16 **“(B) A community provider;**

17 **“(C) A treatment provider;**

18 **“(D) A community-based organization;**

19 **“(E) A case management provider;**

20 **“(F) A recovery support services provider; or**

21 **“(G) Any other individual or entity deemed necessary by the pro-**
22 **gram coordinator to carry out the purposes of the deflection program,**
23 **including individuals with lived experience with substance use disor-**
24 **der, a behavioral health disorder or co-occurring disorders.**

25 **“(6) During a grant application period established by the committee,**
26 **the maximum proportion of grant funds available to an applicant shall**
27 **be determined as follows:**

28 **“(a) The proportion of grant funds available to an applicant other**
29 **than a tribal government shall be determined based on the county**
30 **formula share employed by the Oversight and Accountability Council**

1 established under ORS 430.388, but an applicant may not receive less
2 than \$150,000.

3 “(b) The committee shall determine the proportion of funds avail-
4 able to an applicant that is a federally recognized tribal government.

5 “(7)(a) Grant funds awarded under this section may be used for
6 capital construction of behavioral health treatment infrastructure.

7 “(b) The committee may award planning grants for the development
8 of deflection programs.

9 “(c) The committee may allocate up to three percent of program
10 funds to support grantee data collection and analysis or evaluation of
11 outcome measures.

12 “(8) The Oregon Criminal Justice Commission shall provide staff
13 support to the grant program.

14 “(9) The committee and the commission may adopt rules to carry
15 out the provisions of this section.

16 **SECTION 77.** (1)(a) The Improving People’s Access to
17 Community-based Treatment, Supports and Services Grant Review
18 Committee established under ORS 430.234, in cooperation with the
19 Oregon Criminal Justice Commission and the Oregon Health Author-
20 ity, shall monitor the progress of and evaluate program outcomes for
21 applicants that receive grant funds as part of the Oregon Behavioral
22 Health Deflection Program established under section 76 of this 2024
23 Act.

24 “(b) The committee shall share with the commission any data de-
25 scribed in paragraph (a) of this subsection that the commission re-
26 quires to carry out the commission’s duties under section 37 of this
27 2024 Act.

28 “(2) Beginning no later than September 30, 2025, the committee
29 shall annually report, in the manner described in ORS 192.245 and in
30 conjunction with the report required under ORS 430.245 (3), the

1 **findings of the evaluation described in subsection (1) of this section**
2 **to the relevant interim committees of the Legislative Assembly.**

3 **“SECTION 78. The Oregon Behavioral Health Deflection Program**
4 **Account is established in the State Treasury, separate and distinct**
5 **from the General Fund. All moneys in the account are continuously**
6 **appropriated to the Oregon Criminal Justice Commission for the pur-**
7 **pose of carrying out the provisions of sections 76 and 77 of this 2024**
8 **Act.**

9 **“SECTION 79. ORS 430.234 is amended to read:**

10 “430.234. (1) The Improving People’s Access to Community-based Treat-
11 ment, Supports and Services Grant Review Committee is established in the
12 Oregon Criminal Justice Commission consisting of [19] **21** members as fol-
13 lows:

14 “(a) The Director of the Oregon Health Authority, or the director’s
15 designee.

16 “(b) The Director of the Department of Corrections, or the director’s
17 designee.

18 “(c) The Chief Justice of the Supreme Court, or the Chief Justice’s
19 designee.

20 “(d) The executive director of the Oregon Criminal Justice Commission
21 or the director’s designee.

22 **“(e) Two members of the Oregon Criminal Justice Commission, to**
23 **be appointed by the chair of the commission.**

24 “[e)] (f) The Director of the Housing and Community Services Depart-
25 ment or the director’s designee.

26 “[f)] (g) Nine members appointed by the Governor including:

27 “(A) A district attorney.

28 “(B) An attorney specializing in defense of individuals with mental health
29 or substance use disorders.

30 “(C) A chief of police.

1 “(D) A county commissioner.

2 “(E) A director of a hospital that provides acute mental health treatment.

3 “(F) A representative of a community-based mental health treatment fa-
4 cility or a practitioner in a community-based mental health treatment facil-
5 ity.

6 “(G) A representative of a community-based substance use disorder treat-
7 ment facility or a practitioner in a community-based substance use disorder
8 treatment facility.

9 “(H) A sheriff.

10 “(I) A representative of a federally recognized Indian tribe.

11 “[(g)] (h) One nonvoting member appointed by the President of the Senate
12 from among members of the Senate.

13 “[(h)] (i) One nonvoting member appointed by the Speaker of the House
14 of Representatives from among members of the House of Representatives.

15 “[(i)] (j) Three members of the public that represent the age demographics
16 of the target population.

17 “(2) A majority of the voting members of the committee constitutes a
18 quorum for the transaction of business.

19 “(3) The directors of the Oregon Criminal Justice Commission and the
20 Oregon Health Authority or their designees shall serve as cochairpersons.

21 “(4) If there is a vacancy for any cause, the appointing authority shall
22 make an appointment to become effective immediately.

23 “(5) The committee shall meet at times and places specified by the call
24 of the cochairpersons or a majority of the voting members of the committee.

25 “(6) The Oregon Criminal Justice Commission shall provide staff support
26 to the committee.

27 “(7) Legislative members of the committee shall be entitled to payment
28 of compensation and expenses under ORS 171.072, payable from funds appro-
29 priated to the Legislative Assembly.

30 “(8) Members of the committee who are not members of the Legislative

1 Assembly are not entitled to compensation but may be reimbursed for actual
2 and necessary travel and other expenses incurred by the member in the per-
3 formance of the member's official duties in the manner and amount provided
4 in ORS 292.495.

5 "(9) All agencies of state government, as defined in ORS 174.111, are di-
6 rected to assist the committee in the performance of the duties of the com-
7 mittee and, to the extent permitted by laws relating to confidentiality, to
8 furnish information and advice that the members of the committee consider
9 necessary to perform their duties.

10

11

"EXPANSION OF WELFARE HOLDS

12

13 **"SECTION 80.** ORS 430.399 is amended to read:

14 "430.399. (1) Any person who is intoxicated or under the influence of
15 controlled substances in a public place may be sent home or taken to a so-
16 bering facility or to a treatment facility by a police officer. If the person is
17 incapacitated, the person shall be taken by the police officer to an appro-
18 priate treatment facility or sobering facility. If the health of the person ap-
19 pears to be in immediate danger, or the police officer has reasonable cause
20 to believe the person is dangerous to self or to any other person, the person
21 shall be taken by the police officer to an appropriate treatment facility or
22 sobering facility. A person shall be deemed incapacitated when in the opinion
23 of the police officer the person is unable to make a rational decision as to
24 acceptance of assistance.

25 "(2) When a person is taken to a treatment facility, the director of the
26 treatment facility shall determine whether the person shall be admitted as
27 a patient, referred to another treatment facility or a sobering facility or de-
28 nied referral or admission. If the person is incapacitated or the health of the
29 person appears to be in immediate danger, or if the director has reasonable
30 cause to believe the person is dangerous to self or to any other person, the

1 person must be admitted. The person shall be discharged within [48] **72** hours
2 unless the person has applied for voluntary admission to the treatment fa-
3 cility.

4 “(3) When a person is taken to a sobering facility, the staff of the sober-
5 ing facility shall, consistent with the facility’s comprehensive written poli-
6 cies and procedures, determine whether or not the person shall be admitted
7 into the sobering facility. A person who is admitted shall be discharged from
8 the sobering facility within 24 hours.

9 “(4) In the absence of any appropriate treatment facility or sobering fa-
10 cility, or if a sobering facility determines that a person should not be ad-
11 mitted to the sobering facility, an intoxicated person or a person under the
12 influence of controlled substances who would otherwise be taken by the po-
13 lice officer to a treatment facility or sobering facility may be taken to the
14 city or county jail where the person may be held until no longer intoxicated,
15 under the influence of controlled substances or incapacitated.

16 “(5) An intoxicated person or person under the influence of controlled
17 substances, when taken into custody by the police officer for a criminal of-
18 fense, shall immediately be taken to the nearest appropriate treatment fa-
19 cility when the condition of the person requires emergency medical
20 treatment.

21 “(6) The records of a person at a treatment facility or sobering facility
22 may not, without the person’s consent, be revealed to any person other than
23 the director and staff of the treatment facility or sobering facility. A person’s
24 request that no disclosure be made of admission to a treatment facility or
25 sobering facility shall be honored unless the person is incapacitated or dis-
26 closure of admission is required by ORS 430.397.

27

28 “ **OPIOID USE DISORDER MEDICATION GRANT PROGRAM**

29

30 “**SECTION 81. As used in sections 81 to 86 of this 2024 Act:**

1 **“(1) ‘Commission’ means the Oregon Criminal Justice Commission.**

2 **“(2) ‘Local correctional facility’ has the meaning given that term**
3 **in ORS 169.005.**

4 **“(3) ‘Tribal correctional facility’ means a jail or prison in Oregon**
5 **that is operated by a federally recognized tribe and confines persons**
6 **for more than 36 hours.**

7 **“SECTION 82. (1) The Oregon Jail-Based Medications for Opioid Use**
8 **Disorder Grant Program is established in the Oregon Criminal Justice**
9 **Commission to provide opioid use disorder treatment and transition**
10 **planning services to persons in custody in local correctional facilities**
11 **and tribal correctional facilities.**

12 **“(2) The commission, in collaboration with the Oregon Health Au-**
13 **thority, shall administer the grant program. At minimum, the com-**
14 **mission and authority shall collaborate to provide grant recipients**
15 **support with technical assistance and best practices.**

16 **“SECTION 83. (1) The Oregon Criminal Justice Commission shall**
17 **award grants to cities and counties in Oregon that operate a local**
18 **correctional facility and to federally recognized tribes in Oregon that**
19 **operate a tribal correctional facility.**

20 **“(2) Applicants may submit an individual application or a joint ap-**
21 **plication in partnership with other local correctional facilities or tribal**
22 **correctional facilities.**

23 **“(3) At least 10 percent of total moneys awarded to grant recipients**
24 **must be awarded to local correctional facilities in rural areas, as de-**
25 **finied by the commission by rule, or tribal correctional facilities. If any**
26 **amount of the 10 percent is not awarded during an initial application**
27 **cycle, the remaining amount may be awarded to any otherwise eligible**
28 **local correctional facility or tribal correctional facility under a sup-**
29 **plemental application cycle.**

30 **“(4) The commission may enter a contract with a third party to**

1 provide statewide technical assistance to grant recipients.

2 “(5) The commission shall consider geographic equity when award-
3 ing grant funds.

4 **“SECTION 84. Moneys awarded to grant recipients under section 83
5 of this 2024 Act may be used to:**

6 “(1) Provide medication, telemedicine or any other reasonable
7 treatment to persons in custody with an opioid use disorder.

8 “(2) Develop or operate mobile or nonmobile opioid treatment units.

9 “(3) Administer screenings for opioid use disorder or risk of acute
10 withdrawal.

11 “(4) Facilitate transition planning services for persons in custody
12 who seek or receive opioid use disorder treatment.

13 “(5) Undertake any other actions reasonably calculated to mitigate
14 operational or structural barriers to providing opioid use disorder
15 treatment in local correctional facilities or tribal correctional facili-
16 ties, including but not limited to mitigating any lack of secure storage
17 for medication.

18 **“SECTION 85. The Oregon Criminal Justice Commission shall adopt
19 rules necessary to administer sections 81 to 86 of this 2024 Act. The
20 rules, at minimum, must:**

21 “(1) Establish a methodology for reviewing and approving grant
22 applications and awarding grants.

23 “(2) Require applicants to submit a statement acknowledging that
24 any grant funds received must be expended in accordance with the
25 allowable uses described in section 84 of this 2024 Act.

26 “(3) Require applicants to submit a letter of commitment from each
27 administrator of a local correctional facility or tribal correctional fa-
28 cility who is associated with the application, committing to participate
29 in good faith in the grant program.

30 “(4) Define ‘rural’ for purposes of section 83 (3) of this 2024 Act.

1 **“SECTION 86. (1) The Oregon Criminal Justice Commission shall**
2 **convene an advisory committee to evaluate applications and make**
3 **recommendations to the commission for the awarding of grants under**
4 **section 83 of this 2024 Act.**

5 **“(2) The chairperson of the commission shall exercise discretion to**
6 **appoint members to serve on the advisory committee.**

7 **“SECTION 87. (1) The Oregon Jail-Based Medications for Opioid Use**
8 **Disorder Fund is established in the State Treasury, separate and dis-**
9 **tinct from the General Fund. Interest earned by the Oregon Jail-Based**
10 **Medications for Opioid Use Disorder Fund shall be credited to the**
11 **fund. The fund consists of moneys appropriated or otherwise trans-**
12 **ferred to the fund by the Legislative Assembly.**

13 **“(2) Moneys in the fund are continuously appropriated to the**
14 **Oregon Criminal Justice Commission for the purposes of carrying out**
15 **sections 81 to 86 of this 2024 Act.**

16 **“SECTION 88. No later than December 1, 2024, the Oregon Criminal**
17 **Justice Commission shall submit a report, in the manner provided in**
18 **ORS 192.245, to the interim committees of the Legislative Assembly**
19 **related to the judiciary and health care. The report must include:**

20 **“(1) The name of each recipient of a grant under section 83 of this**
21 **2024 Act and the amount of moneys each grant recipient has received**
22 **to date.**

23 **“(2) Opportunities, if any, for local correctional facilities or tribal**
24 **correctional facilities to obtain medications for opioid use disorder**
25 **from state agencies.**

26 **“(3) Any other information relevant to the provision of opioid use**
27 **disorder treatment to persons in custody in local correctional facilities**
28 **or tribal correctional facilities.**

29 **“SECTION 89. Section 88 of this 2024 Act is repealed on January 2,**
30 **2025.**

