

## **Fix and Improve Measure 110 Summary**

**Goal:** More treatment, more quickly, for more people.

### **Proposed Changes:**

- Mandates drug treatment for drug-dependent people convicted of, or charged with, drug possession, public use, or certain misdemeanor property crimes (such as shoplifting or car break-ins).
- Protects current funding levels for Measure 110 programs with a guaranteed funding floor.
- Recriminalizes possession of fentanyl, methamphetamine, heroin, cocaine, and other hard drugs and makes the use of controlled substances in public a misdemeanor crime.
- Creates diversion procedures for those charged with drug possession or public use.
- Automatically expunges misdemeanor drug possession or public use convictions upon successful completion of drug treatment and probation.
- Increases penalties for the manufacture/delivery of controlled substances for repeat offenders, or if delivery causes death.
- Makes possession of tableting or encapsulating machines a crime.
- Defines “delivery” of a controlled substance to include possession with intent to transfer to another.
- Transfers Measure 110 grant program to Alcohol and Drug Policy Commission (ADPC).
- Requires ADPC to fund evidence-informed programs for prevention, treatment, recovery support, community harm reduction and enforcement services.
- Harm reduction services can be funded with or without law enforcement participation.

For more information, visit our website: [fixballotmeasure110.com](http://fixballotmeasure110.com).

**FIX AND IMPROVE MEASURE 110 - MEASURE C**

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

**USE OF CONTROLLED SUBSTANCE IN A PUBLIC PLACE**

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4 **SECTION 1. Section 2 of this 2024 Act is added to and made a part of ORS 475.752 to**  
5 **475.980.**

6 **SECTION 2. (1) It is unlawful for any person knowingly or intentionally to use a controlled**  
7 **substance in a public place unless the substance was obtained directly from, or pursuant to a valid**  
8 **prescription or order of, a practitioner while acting in the course of professional practice, or except**  
9 **as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who**  
10 **violates this section is guilty of a Class A misdemeanor.**

11 **(2) As used in this section, “public place” means a place to which the general public has**  
12 **access and includes, but is not limited to, highways, streets, schools, places of amusement, parks,**  
13 **playgrounds, premises and vehicles used in connection with public passenger transportation, and**  
14 **hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or**  
15 **apartments designed for actual residence.**

**MANDATORY DRUG TREATMENT**

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18 **SECTION 3. (1) For a person convicted of or charged with a designated drug-related**  
19 **misdemeanor or designated property misdemeanor as defined in ORS 423.478 as amended by**  
20 **Section 11 of this 2024 Act, the following shall be included as conditions of probation or as part of a**  
21 **conditional discharge diversion agreement under Section 12 of this 2024 Act:**

22 **(a) A requirement that the person be evaluated to determine whether the person is a drug-**  
23 **dependent person, and that the person provide written consent for such evaluation; and**

24 **(b) A requirement that, if the evaluation indicates that the person is a drug-dependent**  
25 **person and that such person may benefit from treatment for drug dependence, the person must**  
26 **complete the course of treatment as directed by the evaluator.**

27 **(2) As to any evaluation and treatment required under subsection (1) of this section:**

28 **(a) The state shall fund the costs of such evaluation and treatment, including supervision**  
29 **related to the person’s compliance with evaluation and treatment requirements.**

30 **(b) The court may assess against the person a fee for the costs described in subsection (2)(a)**  
31 **of this section, based on the person’s ability to pay.**

1 **RECRIMINALIZING DRUG POSSESSION**

2 **SECTION 4.** ORS 475.752 is amended to read:

3 475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is  
4 unlawful for any person to manufacture or deliver a controlled substance. Any person who violates this  
5 subsection with respect to:

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

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

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

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

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

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

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

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

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

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

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

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

26 (a) A controlled substance in Schedule I, is guilty of a Class [*E violation*] **A misdemeanor**,  
27 except as otherwise provided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

28 (b) A controlled substance in Schedule II, is guilty of a Class [*E violation*] **A misdemeanor**,  
29 except as otherwise provided in ORS 475.814, 475.824, 475.834 or 475.884 or subsection (8) of this  
30 section.

31 (c) A controlled substance in Schedule III, is guilty of a Class [*E violation*] **A misdemeanor**.

32 (d) A controlled substance in Schedule IV, is guilty of a Class [*E violation*] **A misdemeanor**.

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

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

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

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

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

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

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

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

15 (7) Notwithstanding subsection (3)(a) of this section[.],

16 [(a) *Unlawful possession of a controlled substance in Schedule I is a Class A misdemeanor if the*  
17 *person possesses:*

18 (A) *Forty or more user units of a mixture or substance containing a detectable amount of lysergic*  
19 *acid diethylamide; or*

20 (B) *Twelve grams or more of a mixture or substance containing a detectable amount of psilocybin*  
21 *or psilocin.]*

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

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

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

25 (8) Notwithstanding subsection (3)(b) of this section[.],

26 [(a) *Unlawful possession of a controlled substance in Schedule II is a Class A misdemeanor if the*  
27 *person possesses one gram or more or five or more user units of a mixture or substance containing a*  
28 *detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the State*  
29 *Board of Pharmacy.]*

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

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

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

1           **SECTION 5.** ORS 475.824 is amended to read:

2           475.824. (1) It is unlawful for any person knowingly or intentionally to possess methadone unless  
3 the methadone was obtained directly from, or pursuant to a valid prescription or order of, a practitioner  
4 while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to  
5 475.285 and 475.752 to 475.980.

6           (2) (a) Unlawful possession of methadone is a Class [*E violation*] **A misdemeanor**.

7           (b) Notwithstanding paragraph (a) of this subsection, [*unlawful possession of methadone is a*  
8 *Class A misdemeanor if the person possesses 40 or more user units of a mixture or substance containing*  
9 *a detectable amount of methadone.*]

10          [*(c) Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful possession of  
11 methadone is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

12           **SECTION 6.** ORS 475.834 is amended to read:

13          475.834. (1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless  
14 the oxycodone was obtained directly from, or pursuant to a valid prescription or order of, a practitioner  
15 while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to  
16 475.285 and 475.752 to 475.980.

17          (2) (a) Unlawful possession of oxycodone is a Class [*E violation*] **A misdemeanor**.

18          (b) Notwithstanding paragraph (a) of this subsection, [*unlawful possession of oxycodone is a*  
19 *Class A misdemeanor if the person possesses 40 or more pills, tablets, capsules or user units of a mixture*  
20 *or substance containing a detectable amount of oxycodone.*]

21          [*(c) Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful possession of  
22 oxycodone is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

23           **SECTION 7.** ORS 475.854 is amended to read:

24          475.854. (1) It is unlawful for any person knowingly or intentionally to possess heroin.

25          (2) (a) Unlawful possession of heroin is a Class [*E violation*] **A misdemeanor**.

26          (b) Notwithstanding paragraph (a) of this subsection, [*unlawful possession of heroin is a Class A*  
27 *misdemeanor if the person possesses one gram or more of a mixture or substance containing a detectable*  
28 *amount of heroin.*]

29          [*(c) Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful possession of heroin is  
30 a Class B felony if:

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

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

1           **SECTION 8.** ORS 475.874 is amended to read:

2           475.874. (1) It is unlawful for any person knowingly or intentionally to possess 3,4-  
3 methylenedioxyamphetamine.

4           (2) (a) Unlawful possession of 3,4-methylenedioxyamphetamine is a Class [*E violation*] **A**  
5 **misdemeanor**.

6           (b) Notwithstanding paragraph (a) of this subsection, [*unlawful possession of 3,4-*  
7 *methylenedioxyamphetamine is a Class A misdemeanor if the person possesses one gram or more or*  
8 *five or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:*]

9           [*(A) 3,4-methylenedioxyamphetamine;*]

10          [*(B) 3,4-methylenedioxyamphetamine; or*]

11          [*(C) 3,4-methylenedioxy-N-ethylamphetamine.*]

12          [*(c) Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful possession of 3,4-  
13 methylenedioxyamphetamine is a Class B felony if:

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

15          (B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

16           **SECTION 9.** ORS 475.884 is amended to read:

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

21           (2) (a) Unlawful possession of cocaine is a Class [*E violation*] **A misdemeanor**.

22           (b) Notwithstanding paragraph (a) of this subsection, [*unlawful possession of cocaine is a Class A*  
23 *misdemeanor if the person possesses two grams or more of a mixture or substance containing a*  
24 *detectable amount of cocaine.*]

25           [*(c) Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful possession of cocaine is  
26 a Class C felony if:

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

28           (B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

29           **SECTION 10.** ORS 475.894 is amended to read:

30           475.894. (1) It is unlawful for any person knowingly or intentionally to possess  
31 methamphetamine unless the substance was obtained directly from, or pursuant to, a valid prescription or  
32 order of a practitioner while acting in the course of professional practice, or except as otherwise  
33 authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

34           (2) (a) Unlawful possession of methamphetamine is a Class [*E violation*] **A misdemeanor**.

1 (b) Notwithstanding paragraph (a) of this subsection, [*unlawful possession of methamphetamine*  
2 *is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance*  
3 *containing a detectable amount of methamphetamine.*]

4 [(c) *Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful possession of  
5 methamphetamine is a Class C felony if:

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

7 (B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

## 8 9 **DESIGNATED DRUG-RELATED AND PROPERTY MISDEMEANORS**

10 **SECTION 11.** ORS 423.478 is amended to read:

11 423.478. (1) The Department of Corrections shall:

12 (a) Operate prisons for offenders sentenced to terms of incarceration for 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, services and programs, and  
16 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 department, shall assume  
19 responsibility for community-based supervision, sanctions and services for offenders convicted of  
20 felonies, designated drug-related misdemeanors, [*or*] designated person misdemeanors, **or designated**  
21 **property misdemeanors** who are:

22 (a) On parole;

23 (b) On probation;

24 (c) On post-prison supervision;

25 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

26 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-  
27 Prison Supervision to 12 months or less incarceration for violation of a condition of parole, probation or  
28 post-prison supervision; or

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

30 (3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration, when  
31 an offender is committed to the custody of the supervisory authority of a county under ORS 137.124 (2)  
32 or (4), the supervisory authority may execute the sentence by imposing sanctions other than incarceration  
33 if deemed appropriate by the supervisory authority. If the supervisory authority releases a person from  
34 custody under this subsection and the person is required to report as a sex offender under ORS 163A.010,

1 the supervisory authority, as a condition of release, shall order the person to report to the Department of  
2 State Police, a city police department or a county sheriff’s office or to the supervising agency, if any:

- 3 (a) When the person is released;
- 4 (b) Within 10 days of a change of residence;
- 5 (c) Once each year within 10 days of the person’s birth date;
- 6 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
7 institution of higher education; and
- 8 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher  
9 education.

10 (4) As used in this section:

11 (a) “Attends,” “institution of higher education,” “works” and “carries on a vocation” have the  
12 meanings given those terms in ORS 163A.005.

13 (b) “Designated drug-related misdemeanor” means:

14 (A) Unlawful possession of fentanyl under ORS 475.752(8)(a);

15 (B) Unlawful possession of methadone under ORS 475.824 (2)[(b)](a);

16 (C) Unlawful possession of oxycodone under ORS 475.834 (2)[(b)](a);

17 (D) Unlawful possession of heroin under ORS 475.854 (2)[(b)](a);

18 (E) Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874  
19 (2)[(b)](a);

20 (F) Unlawful possession of cocaine under ORS 475.884 (2)[(b)](a); [or]

21 (G) Unlawful possession of methamphetamine under ORS 475.894 (2)[(b)](a); or

22 **(H) Use of a controlled substance in a public place under Section 2 of this 2024 Act.**

23 (c) “Designated person misdemeanor” means:

24 (A) Assault in the fourth degree constituting domestic violence if the judgment document is as  
25 described in ORS 163.160 (4);

26 (B) Menacing constituting domestic violence if the judgment document is as described in ORS  
27 163.190 (3); or

28 (C) Sexual abuse in the third degree under ORS 163.415.

29 **(d) “Designated property misdemeanor” means:**

30 **(A) Theft in the third degree under ORS 164.043;**

31 **(B) Theft in the second degree under ORS 164.045;**

32 **(C) Criminal trespass in the second degree under ORS 164.245;**

33 **(D) Criminal trespass in the first degree under ORS 164.255;**

34 **(E) Unlawful entry into a motor vehicle under ORS 164.272;**



- 1 (F) Criminal mischief in the second degree under ORS 164.354;  
2 (G) Any attempt to commit:  
3 (i) Theft in the first degree under ORS 164.055;  
4 (ii) Unauthorized use of a vehicle under ORS 164.135;  
5 (iii) Criminal mischief in the first degree under ORS 164.365; or  
6 (iv) Identity theft under ORS 165.800; or  
7 (H) Any other crime the court designates at the time of sentencing as a designated property  
8 misdemeanor.

9  
10 **CONDITIONAL DISCHARGE DIVERSION**

11 **SECTION 12.** (1) Subject to subsection (5) of this section, the district attorney shall offer  
12 any person charged with a designated drug-related misdemeanor as defined in ORS 423.478 as  
13 amended by Section 11 of this 2024 Act the opportunity to enter into a conditional discharge  
14 diversion agreement. If the defendant enters into the agreement within 30 days after arraignment,  
15 or at a later date with consent of the district attorney, the court shall defer further proceedings and  
16 place the person on probation. The terms of the probation shall be defined by a probation  
17 agreement.

18 (b) A probation agreement carries the understanding that if the defendant fulfills the terms  
19 of the agreement, the criminal charges filed against the defendant will be dismissed with prejudice.

20 (c) The agreement must contain a waiver of the following rights of the defendant with  
21 respect to each criminal charge:

22 (A) The right to a speedy trial and trial by jury;

23 (B) The right to present evidence on the defendant's behalf;

24 (C) The right to confront and cross-examine witnesses against the defendant;

25 (D) The right to contest evidence presented against the defendant, including the right to  
26 object to hearsay evidence; and

27 (E) The right to appeal from a judgment of conviction resulting from an adjudication of  
28 guilt entered under subsection (2) of this section, unless the appeal is based on an allegation that the  
29 sentence exceeds the maximum allowed by law or constitutes cruel and unusual punishment.

30 (d) The agreement must include a requirement that the defendant pay any restitution owed  
31 to the victim as determined by the court, and any fees for court-appointed counsel ordered by the  
32 court under ORS 135.050.

33 (e) The agreement may not contain a requirement that the defendant enter a plea of guilty  
34 or no contest on any charge in the accusatory instrument.

1           **(f) Entering into a probation agreement does not constitute an admission of guilt and is not**  
2 **sufficient to warrant a finding or adjudication of guilt by a court.**

3           **(g) Police reports or other documents associated with the criminal charges in a court file**  
4 **other than the probation agreement may not be admitted into evidence, and do not establish a**  
5 **factual basis for finding the defendant guilty, unless the court resumes criminal proceedings and**  
6 **enters an adjudication of guilt under subsection (2) of this section.**

7           **(2) Upon violation of a term or condition of the probation agreement, the court may resume**  
8 **the criminal proceedings and may find the defendant guilty of the offenses in the accusatory**  
9 **instrument in accordance with the waiver of rights in the probation agreement. The defendant may**  
10 **not contest the sufficiency of the evidence establishing the defendant’s guilt of the offenses in the**  
11 **accusatory instrument.**

12           **(3) Upon a determination by the court that the terms and conditions of the probation**  
13 **agreement have been met, with input from the district attorney and the probation department, the**  
14 **court shall discharge the person and dismiss the proceedings against the person. Discharge and**  
15 **dismissal under this section shall be without adjudication of guilt and is not a conviction for**  
16 **purposes of this section or for purposes of disqualifications or disabilities imposed by law upon**  
17 **conviction of a crime.**

18           **(4) In the event that the period of probation under this section expires, but the terms and**  
19 **conditions of the probation agreement have not been fulfilled and no probation violation**  
20 **proceeding was initiated prior to the expiration of the period of probation, the court may not**  
21 **discharge the person and dismiss the proceedings against the person. The court shall instead issue**  
22 **an order requiring the person to appear and to show cause why the court should not enter an**  
23 **adjudication of guilt as described in subsection (2) of this section due to the failure of the person to**  
24 **fulfill the terms and conditions of the probation agreement prior to expiration of the period of**  
25 **probation. At the hearing on the order to show cause, after considering any evidence or argument**  
26 **from the district attorney and the person, the court may:**

27           **(a) Order a new period of probation to allow the person to fulfill the terms and conditions of**  
28 **the probation agreement; or**

29           **(b) Enter an adjudication of guilt as described in subsection (2) of this section.**

30           **(5) A defendant is eligible for a conditional discharge diversion agreement as described in**  
31 **this section if the defendant meets all of the following conditions:**

32           **(a) On the date the defendant filed the petition for a conditional discharge diversion**  
33 **agreement, the defendant had no charge, other than the charge for the present offense, pending.**

1           **(b) The defendant has not been convicted of manufacture or delivery of a controlled**  
2 **substance in violation of ORS chapter 475, or the statutory counterpart in another jurisdiction,**  
3 **within the previous 5 years.**

4           **(c) The defendant has not, within the previous 1 year:**

5           **(A) Participated in a drug or driving while under the influence of intoxicants diversion**  
6 **program or in any similar alcohol or drug diversion program in this state or in another**  
7 **jurisdiction, or**

8           **(B) Participated in a previous conditional discharge diversion agreement or conditional**  
9 **postponement for a designated drug misdemeanor, or probation for a designated drug**  
10 **misdemeanor.**

11           **(d) The defendant does not have a criminal history score of B or higher.**

12  
13   **FUNDING FOR EVIDENCE-INFORMED SERVICES**

14           **SECTION 13.** **(1) Using funding available from ORS 430.384 and other sources, the Alcohol**  
15 **and Drug Policy Commission shall provide grants and funding to counties, school districts,**  
16 **federally recognized Indian tribes in Oregon, and Behavioral Health Resource Networks to support**  
17 **provision of the following evidence-informed and evidence-based services:**

18           **(a) Prevention;**

19           **(b) Treatment;**

20           **(c) Recovery support; and**

21           **(d) Individual harm reduction.**

22           **(2) Using funding available from ORS 430.384 and other sources, the Alcohol and Drug**  
23 **Policy Commission shall provide grants and funding to cities and counties to support enforcement**  
24 **related to community harm reduction services under subsection (5) of this section.**

25           **(3) Grants and funding provided by the commission under this section shall ensure that**  
26 **each region of the state receives funding in equitable proportion to its need, as provided by the**  
27 **rules of the commission.**

28           **(4) The commission shall prioritize the funding of detoxification facilities, sobering centers,**  
29 **treatment facilities, and peer recovery support services, including culturally-specific programs,**  
30 **across the state on a formula grant basis to regions of the state.**

31           **(5) The commission shall also prioritize the funding of community harm reduction on a**  
32 **competitive grant basis, including:**

33           **(a) Programs for diversion in lieu of arrest by a police officer;**

1 (b) Community court programs to divert and assist drug-dependent persons that have been  
2 charged with drug possession or other drug-dependent related offenses; and

3 (c) Focused deterrence to eliminate overt drug markets.

4 (6) All grant applications to the commission must be approved by the local planning  
5 committee for each county in which the program or programs will operate.

6 (7) The Legislative Assembly shall appropriate in each biennium a sum of money sufficient  
7 to ensure that the funds available to the commission for grants and funding under this section is not  
8 less than the total amount deposited and transferred into the Drug Treatment and Recovery  
9 Services Fund pursuant to ORS 430.384 for the 2021-2023 biennium, adjusted for inflation since  
10 2023 based on the Consumer Price Index for All Urban Consumers, West Region (All Items), as  
11 published by the Bureau of Labor Statistics of the United States Department of Labor.

12  
13 **POSSESSION OF TABLETING/ENCAPSULATING MACHINES**

14 **SECTION 14.** (1) Except as authorized by a registration under ORS 475.125, it is unlawful  
15 for any person to possess, purchase, deliver, sell, or possess with intent to sell or deliver a tableting  
16 machine, an encapsulating machine, or controlled substance counterfeiting materials knowing,  
17 intending, or having reasonable cause to believe that it will be used to manufacture a controlled  
18 substance or counterfeit substance.

19 (2) Violation of subsection (1) of this section is a Class C Felony.

20 (3) When the court sentences a person under this section, the court shall use crime category  
21 6 of the sentencing guidelines grid of the Oregon Criminal Justice Commission, and shall determine  
22 the sentence by using the criminal history scale of the sentencing guidelines grid.

23 (4) As used in this section:

24 (a) “Controlled substance” has the meaning given that term in ORS 475.005(6)

25 (b) “Counterfeit substance” has the meaning given that term in ORS 475.005(7).

26 (c) “Controlled substance counterfeiting material” means a punch, die, plate, stone, or other  
27 item designed to print, imprint, or reproduce the trademark, trade name, or other identifying  
28 mark, imprint, or device of another or any likeness of any of the foregoing upon a drug or  
29 container or labeling thereof so as to render such drug a counterfeit controlled substance.

30 (d) “Encapsulating machine” means equipment that can be used to fill shells or capsules  
31 with powdered or granular solids or semisolid material to produce coherent solid tablets.

32 (e) “Tableting machine” means equipment that can be used to compact or mold powdered  
33 or granular solids or semisolid material to produce coherent solid tablets.

1                   **EXPUNCTION OF DRUG-RELATED MISDEMEANOR CONVICTION UPON**  
2   **COMPLETION OF TREATMENT**

3           **SECTION 15.** Notwithstanding ORS 137.225, the court shall, by order and without fee, set  
4 aside a conviction of a designated drug-related misdemeanor under the meaning of ORS 423.478 as  
5 amended by Section 11 of this 2024 Act if:

6           (1) The offender was, for that offense, sentenced to probation including completion of a  
7 drug treatment program; and

8           (2) The offender has successfully satisfied all conditions of probation including completion  
9 of any recommended drug treatment program.

10  
11   **REMOVAL OF CLASS E VIOLATIONS**

12           **SECTION 16.** ORS 153.012 is amended to read:

13           153.012. Violations are classified for the purpose of sentencing into the following categories:

14           (1) Class A violations.

15           (2) Class B violations.

16           (3) Class C violations.

17           (4) Class D violations.

18           (5) [*Class E violations.*]

19           [(6)] Unclassified violations as described in ORS 153.015.

20           [(7)](6) Specific fine violations as described in ORS 153.015.

21           **SECTION 17.** ORS 153.018 is amended to read:

22           153.018. (1) The penalty for committing a violation is a fine. The law creating a violation may  
23 impose other penalties in addition to a fine but may not impose a term of imprisonment.

24           (2) Except as otherwise provided by law, the maximum fine for a violation committed by an  
25 individual is:

26           (a) \$2,000 for a Class A violation.

27           (b) \$1,000 for a Class B violation.

28           (c) \$500 for a Class C violation.

29           (d) \$250 for a Class D violation.

30           (e) [*\$100 for a Class E violation.*]

31           [(f)] \$2,000 for a specific fine violation, or the maximum amount otherwise established by law for  
32 the specific fine violation.

33           (3) If a special corporate fine is specified in the law creating the violation, the sentence to pay a  
34 fine shall be governed by the law creating the violation. Except as otherwise provided by law, if a special

1 corporate fine is not specified in the law creating the violation, the maximum fine for a violation  
2 committed by a corporation is:

- 3 (a) \$4,000 for a Class A violation.
- 4 (b) \$2,000 for a Class B violation.
- 5 (c) \$1,000 for a Class C violation.
- 6 (d) \$500 for a Class D violation.

7 **SECTION 18.** ORS 153.019 is amended to read:

8 153.019. (1) Except as provided in ORS 153.020[, *153.062*] and 430.391, the presumptive fines  
9 for violations are:

- 10 (a) \$440 for a Class A violation.
- 11 (b) \$265 for a Class B violation.
- 12 (c) \$165 for a Class C violation.
- 13 (d) \$115 for a Class D violation.
- 14 [*(e) \$100 for a Class E violation.*]

15 (2) The presumptive fine for a specific fine violation is:

- 16 (a) The amount specified by statute as the presumptive fine for the violation; or
- 17 (b) An amount equal to the greater of 20 percent of the maximum fine prescribed for the  
18 violation, or the minimum fine prescribed by statute for the violation.

19 (3) Any surcharge imposed under ORS 1.188 shall be added to and made a part of the  
20 presumptive fine.

21 **SECTION 19.** ORS 153.021 is amended to read:

22 153.021. (1) Except as otherwise provided by law, a court may not defer, waive, suspend or  
23 otherwise reduce the fine for a violation that is subject to the presumptive fines established by ORS  
24 153.019 (1) or 153.020 to an amount that is less than:

- 25 (a) \$225 for a Class A violation.
- 26 (b) \$135 for a Class B violation.
- 27 (c) \$85 for a Class C violation.
- 28 (d) \$65 for a Class D violation.
- 29 [*(e) \$45 for a Class E violation.*]

30 (2) Except as otherwise provided by law, a court may not defer, waive, suspend or otherwise  
31 reduce the fine for a specific fine violation to an amount that is less than 20 percent of the presumptive  
32 fine for the violation.

33 (3) This section does not affect the manner in which a court imposes or reduces monetary  
34 obligations other than fines.

1 (4) The Department of Revenue or Secretary of State may audit any court to determine whether  
2 the court is complying with the requirements of this section. In addition, the Department of Revenue or  
3 Secretary of State may audit any court to determine whether the court is complying with the requirements  
4 of ORS 137.145 to 137.159 and 153.640 to 153.680. The Department of Revenue or Secretary of State  
5 may file an action under ORS 34.105 to 34.240 to enforce the requirements of this section and of ORS  
6 137.145 to 137.159 and 153.640 to 153.680.

7 **SECTION 20.** ORS 153.043, ORS 153.062, and ORS 475.237 are repealed.

8 **SECTION 21.** ORS 153.064 is amended to read:

9 153.064. (1) Except as provided in subsection (2) of this section, a warrant for arrest may be  
10 issued against a person who fails to make a first appearance on a citation for a violation or fails to appear  
11 at any other subsequent time set for trial or other appearance, only if the person is charged with failure to  
12 appear in a violation proceeding under ORS 153.992.

13 (2) If a person fails to make a first appearance on a citation for a violation[ *other than a Class E*  
14 *violation*], or fails to appear at any other subsequent time set for trial or other appearance on a violation[  
15 *other than a Class E violation*], the court may issue an order that requires the defendant to appear and  
16 show cause why the defendant should not be held in contempt. The show cause order may be mailed to  
17 the defendant by certified mail, return receipt requested. If service cannot be accomplished by mail, the  
18 defendant must be personally served. If the defendant is served and fails to appear at the time specified in  
19 the show cause order, the court may issue an arrest warrant for the defendant for the purpose of bringing  
20 the defendant before the court.

21 **SECTION 22.** ORS 153.992 is amended to read:

22 153.992. (1) A person commits the offense of failure to appear in a violation proceeding if the  
23 person has been served with a citation issued under this chapter for a violation[ *other than a Class E*  
24 *violation*] and the person knowingly fails to do any of the following:

25 (a) Make a first appearance in the manner required by ORS 153.061 within the time allowed.

26 (b) Make appearance at the time set for trial in the violation proceeding.

27 (c) Appear at any other time required by the court or by law.

28 (2) Failure to appear on a violation citation is a Class A misdemeanor.

1                   **TRANSFER OF CONTROL OF DRUG TREATMENT AND RECOVERY AND**  
2                   **SERVICES FUND FROM OHA/OAC TO ADPC**

3                   **SECTION 23.** ORS 430.384 is amended to read:

4                   430.384. (1) The Drug Treatment and Recovery Services Fund is established in the State  
5 Treasury, separate and distinct from the General Fund. Interest earned by the Drug Treatment and  
6 Recovery Services Fund shall be credited to the fund.

7                   (2) The Drug Treatment and Recovery Services Fund shall consist of:

8                   (a) Moneys deposited into the fund pursuant to ORS 305.231;

9                   (b) Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;

10                  (c) Moneys allocated from the Oregon Marijuana Account, pursuant to ORS 475C.726 (3)(b);

11                  (d) Moneys allocated from the Criminal Fine Account pursuant to ORS 137.300 (4); and

12                  (e) All other moneys deposited into the fund from any source.

13                  (3) Moneys in the fund shall be continuously appropriated to the [*Oregon Health Authority*]  
14 **Alcohol and Drug Policy Commission** for the purposes set forth in ORS 430.389.

15                  (4) (a) Pursuant to subsection (2)(b) of this section, the Legislative Assembly shall appropriate or  
16 transfer to the fund an amount sufficient to fully fund the grants program required by ORS 430.389.

17                  (b) The total amount deposited and transferred into the fund shall not be less than \$57 million for  
18 the first year ORS 430.383 to 430.390 are in effect.

19                  (c) In each subsequent year, the minimum transfer amount set forth in paragraph (b) of this  
20 subsection shall be increased by not less than the sum of:

21                  (A) \$57 million multiplied by the percentage, if any, by which the monthly averaged U.S. City  
22 Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar  
23 year exceeds the monthly index for the fourth quarter of the calendar year 2020; and

24                  (B) The annual increase, if any, in moneys distributed pursuant to ORS 475C.726 (3)(b).

25                  **SECTION 24.** ORS 430.387 is amended to read:

26                  430.387. The [*Oregon Health Authority*] **Alcohol and Drug Policy Commission** shall cause the  
27 moneys in the Drug Treatment and Recovery Services Fund to be distributed as follows:

28                  (1) An amount necessary for the administration of ORS 430.388 to 430.390, excluding amounts  
29 necessary to establish and maintain the telephone hotline described in ORS 430.391 (1).

30                  (2) After the distribution set forth in subsection (1) of this section, the remaining moneys in the  
31 fund shall be distributed to the grants program as set forth in ORS 430.389.

32                  **SECTION 25.** ORS 430.388 is repealed.

33                  **SECTION 26.** 2023 Oregon Laws, Chapter 248, Section 6 is repealed.



1           **SECTION 27.** ORS 430.389 is amended to read:

2           430.389. (1) The [*Oversight and Accountability Council*] **Alcohol and Drug Policy Commission**  
3 shall approve grants and funding [*provided by the Oregon Health Authority in accordance with this*  
4 *section*] to **accomplish the following:**

5           (a) Implement Behavioral Health Resource Networks and increase access to community care, as  
6 set forth below. A Behavioral Health Resource Network is an entity or collection of entities that  
7 individually or jointly provide some or all of the services described in subsection (2)(e) of this section[.];  
8 **and,**

9           **(b) Provide grants and funding as described in section 13 of this 2024 Act.**

10          (2) (a) The [*authority*] **commission** shall establish an equitable:

11          (A) Process for applying for grants and funding by agencies or organizations, whether  
12 government or community based, to establish Behavioral Health Resource Networks for the purposes of  
13 immediately screening the acute needs of individuals with substance use, including those who also have a  
14 mental illness, and assessing and addressing any ongoing needs through ongoing case management, harm  
15 reduction, treatment, housing and linkage to other care and services.

16          (B) Evaluation process to assess the effectiveness of Behavioral Health Resource Networks that  
17 receive grants or funding.

18          (b) Recipients of grants or funding must be licensed, certified or credentialed by the state,  
19 including certification under ORS 743A.168 (8), or meet criteria prescribed by rule by the [*authority*]  
20 **commission** under ORS 430.390. A recipient of a grant or funding under this subsection may not use the  
21 grant or funding to supplant the recipient’s existing funding.

22          (c) The [*council and the authority*] **commission** shall ensure that residents of each county have  
23 access to all of the services described in paragraph (e) of this subsection.

24          (d) Applicants for grants and funding may apply individually or jointly with other network  
25 participants to provide services in one or more counties.

26          (e) A network must have the capacity to provide the following services and any other services  
27 specified by the [*authority*] **commission** by rule but no individual participant in a network is required to  
28 provide all of the services:

29          (A) Screening by certified addiction peer support or wellness specialists or other qualified  
30 persons designated by the [*council*] **commission** to determine a client’s need for immediate medical or  
31 other treatment to determine what acute care is needed and where it can be best provided, identify other  
32 needs and link the client to other appropriate local or statewide services, including treatment for substance  
33 abuse and coexisting health problems, housing, employment, training and child care. Networks shall  
34 provide this service 24 hours a day, seven days a week, every calendar day of the year through a

1 telephone line or other means. Networks may rely on the statewide telephone hotline established by the  
2 authority under ORS 430.391 for telephone screenings during nonbusiness hours such as evenings,  
3 weekends and holidays. Notwithstanding paragraph (c) of this subsection, only one grantee in each  
4 network within each county is required to provide the screenings described in this subparagraph.

5 (B) Comprehensive behavioral health needs assessment, including a substance use screening by a  
6 certified alcohol and drug counselor or other credentialed addiction treatment professional. The  
7 assessment shall prioritize the self-identified needs of a client.

8 (C) Individual intervention planning, case management and connection to services. If, after the  
9 completion of a screening, a client indicates a desire to address some or all of the identified needs, a case  
10 manager shall work with the client to design an individual intervention plan. The plan must address the  
11 client's need for substance use treatment, coexisting health problems, housing, employment and training,  
12 child care and other services.

13 (D) Ongoing peer counseling and support from screening and assessment through implementation  
14 of individual intervention plans as well as peer outreach workers to engage directly with marginalized  
15 community members who could potentially benefit from the network's services.

16 (E) Assessment of the need for, and provision of, mobile or virtual outreach services to:

17 (i) Reach clients who are unable to access the network; and

18 (ii) Increase public awareness of network services.

19 (F) Harm reduction services and information and education about harm reduction services.

20 (G) Low-barrier substance use treatment.

21 (H) Transitional and supportive housing for individuals with substance use.

22 (f) If an applicant for a grant or funding under this subsection is unable to provide all of the  
23 services described in paragraph (e) of this subsection, the applicant may identify how the applicant  
24 intends to partner with other entities to provide the services, and the [*authority and the council*]  
25 **commission** may facilitate collaboration among applicants.

26 (g) All services provided through the networks must be evidence-informed, trauma-informed,  
27 culturally specific, linguistically responsive, person-centered and nonjudgmental. The goal shall be to  
28 address effectively the client's substance use and any other social determinants of health.

29 (h) The networks must be adequately staffed to address the needs of people with substance use  
30 within their regions as prescribed by the [*authority*] **commission** by rule, including, at a minimum, at  
31 least one person in each of the following categories:

32 (A) Alcohol and drug counselor certified by the authority or other credentialed addiction  
33 treatment professional;

34 (B) Case manager;

1 (C) Addiction peer support specialist certified by the [authority] **Oregon Health Authority**;

2 (D) Addiction peer wellness specialist certified by the authority;

3 (E) Recovery mentor, certified by the Mental Health and Addiction Certification Board of Oregon  
4 or its successor organization; and

5 (F) Youth support specialist certified by the authority.

6 (i) Verification of a screening by a certified addiction peer support specialist, wellness specialist  
7 or other person in accordance with paragraph (e)(A) of this subsection shall promptly be provided to the  
8 client by the entity conducting the screening. *[If the client executes a valid release of information, the*  
9 *entity shall provide verification of the screening to the authority or a contractor of the authority and the*  
10 *authority or the authority's contractor shall forward the verification to the court, in the manner*  
11 *prescribed by the Chief Justice of the Supreme Court, to satisfy the conditions for dismissal under ORS*  
12 *153.062 or 475.237.]*

13 *[(3) (a) If moneys remain in the Drug Treatment and Recovery Services Fund after the council*  
14 *has committed grants and funding to establish behavioral health resource networks serving every county*  
15 *in this state, the council shall authorize grants and funding to other agencies or organizations, whether*  
16 *government or community based, and to the nine federally recognized tribes in this state and service*  
17 *providers that are affiliated with the nine federally recognized tribes in this state to increase access to*  
18 *one or more of the following:*

19 (A) *Low-barrier substance use treatment that is evidence-informed, trauma-informed, culturally*  
20 *specific, linguistically responsive, person-centered and nonjudgmental;*

21 (B) *Peer support and recovery services;*

22 (C) *Transitional, supportive and permanent housing for persons with substance use;*

23 (D) *Harm reduction interventions including, but not limited to, overdose prevention education,*  
24 *access to naloxone hydrochloride and sterile syringes and stimulant-specific drug education and*  
25 *outreach; or*

26 (E) *Incentives and supports to expand the behavioral health workforce to support the services*  
27 *delivered by behavioral health resource networks and entities receiving grants or funding under this*  
28 *subsection.*

29 (b) *A recipient of a grant or funding under this subsection may not use the grant or funding to*  
30 *supplant the recipient's existing funding.]*

31 *[(4)]* **(3)** In awarding grants and funding under subsection[s] (1) *[and (3)]* of this section **and**  
32 **section 13 of this 2024 Act**, the council shall:

33 (a) Distribute grants and funding to ensure access to:

34 (A) Historically underserved populations; and

1 (B) Culturally specific and linguistically responsive services.

2 (b) Consider any inventories or surveys of currently available behavioral health services.

3 (c) Consider available regional data related to the substance use treatment needs and the access to  
4 culturally specific and linguistically responsive services in communities in this state.

5 (d) Consider the needs of residents of this state for services, supports and treatment at all ages.

6 (e) **Consider data regarding the geographic location and rates of overdose incidents and**  
7 **deaths and the rates of crime committed by drug dependent persons.**

8 [(5)] (4) The [*council*] **commission** shall require any government entity that applies for a grant to  
9 specify in the application details regarding subgrantees and how the government entity will fund  
10 culturally specific organizations and culturally specific services. A government entity receiving a grant  
11 must make an explicit commitment not to supplant or decrease any existing funding used to provide  
12 services funded by the grant.

13 [(6)] (5) In determining grants and funding to be awarded, the [*council*] **commission** may consult  
14 the comprehensive addiction, prevention, treatment and recovery plan established by the Alcohol and  
15 Drug Policy Commission under ORS 430.223 and the advice of any other group, agency, organization or  
16 individual that desires to provide advice to the [*council*] **commission** that is consistent with the terms of  
17 this section.

18 [(7)] (6) Services provided by grantees, including services provided by a Behavioral Health  
19 Resource Network, shall be free of charge to the clients receiving the services. Grantees in each network  
20 shall seek reimbursement from insurance issuers, the medical assistance program or any other third party  
21 responsible for the cost of services provided to a client and grants and funding provided by the [*council or*  
22 *the authority*] **commission** under this section may be used for copayments, deductibles or other out-of-  
23 pocket costs incurred by the client for the services.

24 [(8)] (7) Subsection (7) of this section does not require the medical assistance program to  
25 reimburse the cost of services for which another third party is responsible in violation of 42 U.S.C.  
26 1396a(25).

27 **SECTION 28.** ORS 430.390 is amended to read:

28 430.390. (1)[(a)] The [*Oregon Health Authority*] **Alcohol and Drug Policy Commission** shall  
29 adopt rules that establish a grant application process, a process to appeal the denial of a grant and general  
30 criteria and requirements for the Behavioral Health Resource Networks and the grants and funding  
31 required by ORS 430.389, including rules requiring recipients of grants and funding to collect and report  
32 information necessary for the Secretary of State to conduct the financial and performance audits required  
33 by ORS 430.392.

1           ***[(b) When adopting or amending rules under this subsection, the authority shall convene an***  
2           ***advisory committee in accordance with ORS 183.333 in which members of the Oversight and***  
3           ***Accountability Council compose a majority of the membership.]***

4           (2) The **[council] commission** shall have and retain the authority to oversee the Behavioral Health  
5 Resource Networks established under ORS 430.389 and approve the grants and funding under ORS  
6 430.389.

7           (3) The **[authority] commission** shall administer and provide all necessary support to ensure the  
8 implementation of ORS 430.383 to 430.390, and that recipients of grants or funding comply with all  
9 applicable rules regulating the provision of behavioral health services.

10           (4) (a) The **[authority, in consultation with the council,] commission** may enter into interagency  
11 agreements to ensure proper distribution of funds for the grants required by ORS 430.389.

12           (b) The **[authority] commission** shall encourage and take all reasonable measures to ensure that  
13 grant recipients cooperate, coordinate and act jointly with one another to offer the services described in  
14 ORS 430.389.

15           (c) The **[authority] commission** shall post to the **[authority's] commission's** website, at the time  
16 a grant or funding is awarded:

17           (A) The name of the recipient of the grant or funding;

18           (B) The names of any subgrantees or subcontractors of the recipient of the grant or funding; and

19           (C) The amount of the grant or funding awarded.

20           (5) ***[The authority shall provide requested technical, logistical and other support to the council to***  
21 ***assist the council with the council's duties and obligations.]***

22           ***[(6)]*** The Department of Justice shall provide legal services to the **[council] commission** if  
23 requested to assist the **[council] commission** in carrying out the **[council's] commission's** duties and  
24 obligations.

25           **SECTION 29.** ORS 430.391 is amended to read:

26           430.391. (1) The **[Oregon Health Authority] Alcohol and Drug Policy Commission** shall  
27 establish a Behavioral Health Resource Network statewide telephone hotline to provide screenings  
28 described in ORS 430.389 (2)(e)(A) to any caller who is a resident of this state.

29           (2) The telephone hotline shall be staffed 24 hours a day, seven days a week, every calendar day  
30 of the year. Following a screening, at the request of a caller, the telephone hotline shall promptly provide  
31 the verification set forth in ORS 430.389 (2)(i).

32           **SECTION 30.** ORS 430.393 is amended to read:

33           430.393. No later than January 1, 2022, and at the beginning of each calendar quarter thereafter,  
34 the **[Oregon Health Authority] Alcohol and Drug Policy Commission** shall report to the Legislative

1 Assembly, in the manner provided in ORS 192.245, how funds from the Drug Treatment and Recovery  
2 Services Fund were spent in the preceding calendar quarter.

3  
4 **DELIVERY & MANUFACTURE OF CONTROLLED SUBSTANCES: INCREASED**  
5 **SENTENCES FOR REPEAT DRUG DEALERS**

6 **SECTION 31.** ORS 475.925 is amended to read:

7 475.925 When a person is convicted of the unlawful delivery or manufacture of a controlled  
8 substance, the court shall sentence the person to a term of incarceration ranging from:

9 (1) 58 months to 130 months, depending on the person's criminal history, if the delivery or  
10 manufacture involves:

11 (a) 500 grams or more of a mixture or substance containing a detectable amount of cocaine;

12 (b) 500 grams or more of a mixture or substance containing a detectable amount of  
13 methamphetamine, its salts, isomers or salts of its isomers;

14 (c) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

15 (d) 100 grams or more of a mixture or substance containing a detectable amount of fentanyl, or  
16 any substituted derivative of fentanyl as defined by the rules of the State Board of Pharmacy; or

17 (e) 100 grams or more or 500 or more pills, tablets or capsules of a mixture or substance  
18 containing a detectable amount of ecstasy.

19 (2) 34 months to 72 months, depending on the person's criminal history, if the delivery or  
20 manufacture involves:

21 (a) 100 grams or more of a mixture or substance containing a detectable amount of cocaine;

22 (b) 100 grams or more of a mixture or substance containing a detectable amount of  
23 methamphetamine, its salts, isomers or salts of its isomers;

24 (c) 50 grams or more of a mixture or substance containing a detectable amount of heroin;

25 (d) 50 grams or more of a mixture or substance containing a detectable amount of fentanyl, or any  
26 substituted derivative of fentanyl as defined by the rules of the Oregon Board of Pharmacy; or

27 (e) 50 grams or more or 250 or more pills, tablets or capsules of a mixture or substance  
28 containing a detectable amount of ecstasy.

29 **(3) 36 months if the person has a conviction for a previous unlawful delivery or**  
30 **manufacture of a controlled substance or attempted unlawful delivery or manufacture of a**  
31 **controlled substance within the preceding 5 years.**

1           **“TAYLOR’S LAW”: INCREASED SENTENCE IF DELIVERY OF CONTROLLED**  
2   **SUBSTANCE CAUSES DEATH**

3           **SECTION 32.** Section 33 of this 2024 Act is added to and made a part of ORS 475.752 to  
4 **475.980.**

5           **SECTION 33.** (1) (a) Notwithstanding ORS 475.752 to 475.980, unlawful delivery of a  
6 controlled substance that results in the death of another person from the use of the controlled  
7 substance is a Class A felony.

8           (b) Each person who unlawfully delivers a controlled substance that results in the death of  
9 another person from the use of the controlled substance is criminally liable under this subsection,  
10 regardless of whether the deceased person received the controlled substance directly from the  
11 person.

12           (c) An unlawful delivery of a controlled substance is considered to result in the death of  
13 another person from the use of the controlled substance if the use of the controlled substance was a  
14 factor in causing the death of the other person.

15           (2) (a) When a person is convicted of the unlawful delivery of a controlled substance, and  
16 the unlawful delivery resulted in the death of another person from the use of the controlled  
17 substance, the court shall sentence the person to a term of incarceration ranging from 58 months to  
18 130 months, depending on the person’s criminal history.

19           (b) When the court sentences a person under this section, the court shall use crime category  
20 10 of the sentencing guidelines grid of the Oregon Criminal Justice Commission, and shall  
21 determine the sentence by using the criminal history scale of the sentencing guidelines grid.

22           (c) In determining the criminal history for a person to be sentenced under this section, a  
23 prior conviction for unlawful delivery of a controlled substance is a person felony, as that term is  
24 defined in the rules of the commission.

25           (d) Notwithstanding ORS 161.605, the court shall impose the sentence described in this  
26 subsection, and may not grant a downward dispositional departure or a downward durational  
27 departure under the rules of the commission, except as provided in subsection (3) of this section.

28           (e) Notwithstanding paragraph (d) of this subsection, the court may impose a sentence other  
29 than the sentence described in this subsection if the court imposes a longer term of incarceration  
30 that is otherwise required or authorized by law.

31           (f) A person sentenced under this subsection may not receive a reduction in the term of  
32 incarceration for appropriate institutional behavior that exceeds 20 percent of the sentence  
33 imposed. The person is not eligible for transitional leave under ORS 421.168 or any other reduction  
34 in the term of imprisonment.

1           **(3) (a) The court shall grant a downward dispositional departure under the rules of the**  
2 **commission, and impose as a sentence a term of supervised probation, if the court finds by clear**  
3 **and convincing evidence that:**

4           **(A) The other person whose death resulted from the use of the controlled substance was a**  
5 **family or household member or friend of, or person cohabitating in a non-intimate relationship**  
6 **with, the person,**

7           **(B) There was no consideration; and**

8           **(C) The person made good faith efforts to assist the state in identifying individuals from**  
9 **whom the person obtained the controlled substance and cooperate with the prosecution of those**  
10 **individuals.**

11           **(b) The court may grant a downward dispositional departure under the rules of the**  
12 **commission, and impose as a sentence a term of supervised probation, if the court finds by clear**  
13 **and convincing evidence that:**

14           **(A) The primary motivation of the delivery of the controlled substance was to support the**  
15 **person’s use of the controlled substance;**

16           **(B) The person made good faith efforts to assist the state in identifying individuals from**  
17 **whom the person obtained the controlled substance and cooperate with the prosecution of those**  
18 **individuals;**

19           **(C) The person has been diagnosed with a substance use disorder by a court-approved**  
20 **assessor; and**

21           **(D) At the time of sentencing, the person has no prior convictions for delivery of a**  
22 **controlled substance or for a person felony, as that term is defined in the rules of the commission.**

23           **(c) A person sentenced to probation under this subsection shall, in order to successfully**  
24 **complete the probationary sentence, complete a treatment program at the assessed level of care**  
25 **recommended by a treatment provider approved by the court.**

26           **(d) If the court revokes the probation of a person sentenced under this subsection, the court**  
27 **shall impose the term of incarceration indicated by the person’s criminal history as described in**  
28 **subsection (2) of this section. The person may not receive a reduction in the term of incarceration**  
29 **for appropriate institutional behavior that exceeds 20 percent of the sentence imposed. The person**  
30 **is not eligible for transitional leave under ORS 421.168 or any other reduction in the term of**  
31 **imprisonment.**

32           **(4) As used in this section:**

33           **(a) “Controlled substance” has the meaning given that term in ORS 475.924.**

34           **(b) “Family or household member” has the meaning given that term in ORS 135.230.**



1           **SECTION 34.** ORS 475.935 is amended to read:

2           475.935. (1) Except as provided in ORS 475.900, 475.907 or 475.925 or **Section 33 of this 2024**  
3 **Act**, when the court sentences a person convicted of delivery of methamphetamine under ORS 475.890 or  
4 475.892, the presumptive sentence is 19 months of incarceration, unless the rules of the Oregon Criminal  
5 Justice Commission prescribe a longer presumptive sentence, if the person has two or more previous  
6 convictions for any combination of the following crimes:

7           (a) Delivery or manufacture of methamphetamine under ORS 475.752, 475.886 or 475.890;

8           (b) Delivery or manufacture of methamphetamine within 1,000 feet of a school under ORS  
9 475.888, 475.892 or 475.904; or

10          (c) Possession of a precursor substance with intent to manufacture a controlled substance under  
11 ORS 475.967.

12          (2) The court may impose a sentence other than the sentence provided by subsection (1) of this  
13 section if the court imposes:

14          (a) A longer term of incarceration that is otherwise required or authorized by law; or

15          (b) An upward durational departure sentence that is authorized by law or the rules of the Oregon  
16 Criminal Justice Commission based upon findings of substantial and compelling reasons. Unless  
17 otherwise authorized by law or rule of the Oregon Criminal Justice Commission, the maximum departure  
18 allowed for a person sentenced under this subsection is double the presumptive sentence provided in  
19 subsection (1) of this section.

20          (3) As used in this section, “previous conviction” means:

21          (a) Convictions occurring before, on or after August 16, 2005; and

22          (b) Convictions entered in any other state or federal court for comparable offenses.

23          (4) (a) For a crime committed on or after November 1, 1989, a conviction is considered to have  
24 occurred upon the pronouncement of sentence in open court. However, when sentences are imposed for  
25 two or more convictions arising out of the same conduct or criminal episode, none of the convictions is  
26 considered to have occurred prior to any of the other convictions arising out of the same conduct or  
27 criminal episode.

28          (b) For a crime committed prior to November 1, 1989, a conviction is considered to have  
29 occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court  
30 of the suspended imposition of a sentence.

31          (5) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

1                   **RESTORATION OF *STATE V. BOYD*: “DELIVERY” TO INCLUDE POSSESSION**  
2   **WITH INTENT TO SELL**

3                   **SECTION 35.** ORS 475.005 is amended to read:

4                   475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires  
5 otherwise:

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

8                   (2) “Administer” means the direct application of a controlled substance, whether by injection,  
9 inhalation, ingestion or any other means, to the body of a patient or research subject by:

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

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

12                   (3) “Administration” means the Drug Enforcement Administration of the United States  
13 Department of Justice, or its successor agency.

14                   (4) “Agent” means an authorized person who acts on behalf of or at the direction of a  
15 manufacturer, distributor or dispenser. It does not include a common or contract carrier, public  
16 warehouseman or employee of the carrier or warehouseman.

17                   (5) “Board” means the State Board of Pharmacy.

18                   (6) “Controlled substance”:

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

23                   (b) Does not include:

24                   (A) The plant Cannabis family Cannabaceae;

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

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

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

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

30                   (F) Psilocybin or psilocin, but only if and to the extent that a person manufactures, delivers, or  
31 possesses psilocybin, psilocin, or psilocybin products in accordance with the provisions of ORS  
32 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

33                   (7) “Counterfeit substance” means a controlled substance or its container or labeling, which,  
34 without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or

1 device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in  
2 fact manufactured, delivered or dispensed the substance.

3 (8) “Deliver” or “delivery” means the actual **transfer**, constructive **transfer**, [*or*] attempted  
4 transfer, **or possession with intent to transfer**, other than by administering or dispensing, from one  
5 person to another of a controlled substance, whether or not there is an agency relationship.

6 (9) “Device” means instruments, apparatus or contrivances, including their components, parts or  
7 accessories, intended:

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

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

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

14 (11) “Dispenser” means a practitioner who dispenses.

15 (12) “Distributor” means a person who delivers.

16 (13) “Drug” means:

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

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

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

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

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

30 (15) “Manufacture” means the production, preparation, propagation, compounding, conversion or  
31 processing of a controlled substance, either directly or indirectly by extraction from substances of natural  
32 origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical  
33 synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its

1 container, except that this term does not include the preparation or compounding of a controlled  
2 substance:

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

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

7 (16) “Person” includes a government subdivision or agency, business trust, estate, trust or any  
8 other legal entity.

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

13 (18) “Prescription” means a written, oral or electronically transmitted direction, given by a  
14 practitioner for the preparation and use of a drug. When the context requires, “prescription” also means  
15 the drug prepared under such written, oral or electronically transmitted direction. Any label affixed to a  
16 drug prepared under written, oral or electronically transmitted direction shall prominently display a  
17 warning that the removal thereof is prohibited by law.

18 (19) “Production” includes the manufacture, planting, cultivation, growing or harvesting of a  
19 controlled substance.

20 (20) “Research” means an activity conducted by the person registered with the federal Drug  
21 Enforcement Administration pursuant to a protocol approved by the United States Food and Drug  
22 Administration.

23 (21) “Ultimate user” means a person who lawfully possesses a controlled substance for the use of  
24 the person or for the use of a member of the household of the person or for administering to an animal  
25 owned by the person or by a member of the household of the person.

26 (22) “Usable quantity” means:

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

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

31 (23) “Within 1,000 feet” means a straight line measurement in a radius extending for 1,000 feet or  
32 less in every direction from a specified location or from any point on the boundary line of a specified unit  
33 of property.

34

1    **AUTHORITY TO ADOPT AND ENFORCE LOCAL DRUG LAWS**

2            **SECTION 36.** ORS 430.402 is amended to read:

3            430.402. (1) A political subdivision in this state shall not adopt or enforce any local law or  
4 regulation that makes any of the following an offense, a violation or the subject of criminal or civil  
5 penalties or sanctions of any kind:

6            (a) Public intoxication.

7            (b) Public drinking, except as to places where any consumption of alcoholic beverages is  
8 generally prohibited.

9            (c) Drunk and disorderly conduct.

10            (d) Vagrancy or other behavior that includes as one of its elements either drinking alcoholic  
11 beverages or using cannabis or controlled substances in public, being an alcoholic or a drug-dependent  
12 person, or being found in specified places under the influence of alcohol, cannabis or controlled  
13 substances.

14            (e) Using or being under the influence of cannabis [*or controlled substances*].

15            (2) Nothing in subsection (1) of this section shall affect any local law or regulation of any  
16 political subdivision in this state against:

17            (a) Driving while under the influence of intoxicants, as defined in ORS 813.010, or other similar  
18 offenses that involve the operation of motor vehicles[.], or

19            (b) **Using or being under the influence of a controlled substance.**

20  
21    **DEFINITIONS**

22            **SECTION 37.** As used in Section 13 of this 2024 Act:

23            (1) **“Commission” means the Alcohol and Drug Policy Commission established under ORS**  
24 **430.221.**

25            (2) **“Community court program” means an evidence-informed program that utilizes**  
26 **contingency management to address addiction with incentives and swift, certain, and fair sanctions**  
27 **for non-compliance.**

28            (3) **“Community harm reduction” means evidence-informed policies and practices that**  
29 **reduce harm to the community caused by drug-dependent persons and persons unlawfully**  
30 **distributing controlled substances.**

31            (4) **“Detoxification center” means a facility approved by the Oregon Health Authority that**  
32 **provides emergency care or treatment for drug-dependent persons.**

33            (5) **“Drug-dependent person” means one who has lost the ability to control the personal use**  
34 **of substances with abuse potential, or who uses such substances to the extent that the health of the**

1 person or that of others is substantially impaired or endangered or the social or economic function  
2 of the person is substantially disrupted. A drug-dependent person may be physically dependent, a  
3 condition in which the body requires a continuing supply of a drug or controlled substance to avoid  
4 characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an  
5 overwhelming mental desire for continued use of a drug or controlled substance.

6 (6) “Drug-dependent related offense” means an offense that is motivated by a dependence  
7 on a controlled substance.

8 (7) “Individual harm reduction” means evidence-informed policies and practices that  
9 reduce harm to drug-dependent persons, with or without the use of law enforcement.

10 (8) “Local planning committee” means a local planning committee for alcohol and drug  
11 prevention and treatment services appointed or designated by the county governing body under  
12 ORS 430.342.

13 (9) “Recovery” means the state of a person who was a drug-dependent person but is no  
14 longer drug-dependent.

15 (10) “Police officer” means a member of a law enforcement unit who is employed on a part-  
16 time or full-time basis as a peace officer, commissioned by a city, a county or the Department of  
17 State Police and responsible for enforcing the criminal laws of this state and any person formally  
18 deputized by the law enforcement unit to take custody of a person who is intoxicated or under the  
19 influence of one or more controlled substances.

20 (11) “Prevention” means evidence-informed curriculum and practices that reduce the rate  
21 of persons that become drug-dependent among the population that is the target for the policies and  
22 procedures.

23 (12) “Sobering facility” means a facility that meets all of the following criteria:

24 (a) The facility operates for the purpose of providing to individuals who are acutely  
25 intoxicated a safe, clean and supervised environment until the individuals are no longer acutely  
26 intoxicated.

27 (b) The facility contracts with or is affiliated with a treatment program or a provider  
28 approved by the authority to provide addiction treatment, and the contract or affiliation agreement  
29 includes, but is not limited to, case consultation, training and advice and a plan for making  
30 referrals to addiction treatment.

31 (c) The facility, in consultation with the addiction treatment program or provider, has  
32 adopted comprehensive written policies and procedures incorporating best practices for the safety  
33 of intoxicated individuals, employees of the facility and volunteers at the facility.

34 (d) The facility is registered with the Oregon Health Authority under ORS 430.262.

1 (13) “Treatment” means a program that utilizes evidence-based methods to assist a drug-  
2 dependent person become a person in recovery. To qualify as “treatment,” a program must:

3 (a) Have published research in at least two peer-reviewed journals citing the method as  
4 effective in treating drug-dependent persons by assisting them become a person in recovery;

5 (b) Be standardized so it can be replicated with the same or similar efficacy;

6 (c) Has been studied in more than one environment and has provided consistent and  
7 effective results; and

8 (d) Is subject to ongoing evaluation to determine if implementation is adhering to the  
9 protocol for the method and delivering the desired results of assisting drug-dependent persons  
10 become persons in recovery.

11 (14) “Treatment facility” includes outpatient facilities, inpatient facilities and other facilities  
12 that provide treatment services that also meet minimum standards established under ORS 430.357,  
13 any of which may also provide diagnosis and evaluation, medical care, detoxification, social services  
14 or rehabilitation for drug-dependent persons and which operate in the form of a general hospital, a  
15 state hospital, a foster home, a hostel, a clinic or other suitable form approved by the Oregon  
16 Health Authority.

17  
18 **EXCLUSION FOR CANNABIS AND PSILOCYBIN**

19 **SECTION 38.** As used in this 2024 Act, “controlled substance” has the meaning given that  
20 term in ORS 475.005, and does not include:

21 (1) Any compound, manufacture, salt, derivative, mixture or preparation of a plant, part of  
22 a plant, resin or seed of the plant Cannabis family Cannabaceae; or

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

26  
27 **OPERATIVE DATES**

28 **SECTION 39.** (1) This 2024 Act becomes operative on January 1, 2025.

29 (2) The amendments to ORS 153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 423.478,  
30 430.384, 430.387, 430.389, 430.390, 430.391, 430.393, 430.402, 475.005, 475.752, 475.824, 475.834,  
31 475.854, 475.874, 475.884, 475.894, 475.925, and 475.935 by this 2024 Act apply to conduct  
32 occurring on and after January 1, 2025.