

**Max Williams Legislative Testimony**  
**Coalition to Fix and Improve Ballot Measure 110**  
**December 4, 2023**

Co-Chairs Lieber and Kropf, members of the committee. My name is Max Williams. I appreciate the opportunity to offer testimony and to be joined by my colleague, Kevin Barton, on behalf of the Fix and Improve Measure 110 Coalition. As you are aware, the Coalition has filed an initiative petition to make changes to Ballot Measure 110, but our hope is that the legislature will address this issue comprehensively in the February session.

I am here today to recommend specific adjustments to Ballot Measure 110 that are contained in Initiative Petition 2023-47. The goal of this effort is not to take us back to 2019 – but to encourage a better bridge for those suffering from substance use disorder and to provide them a pathway to recovery. In the short time we have today I would like to make a few key points.

**1. Portions of Measure 110 have Resulted in Significant Negative Community Consequences.**

While Ballot Measure 110 did not create Oregon’s addiction crisis, our mental health crisis, or singlehandedly our boost in virtually all categories of crime, the evidence shows that Measure 110 exacerbated each of these circumstances in communities across Oregon.

The decision to decriminalize lethal street drugs like methamphetamine, fentanyl, and heroin within 90 days of its passage – in a state that ranked 49<sup>th</sup> in access to treatment services - was a recipe for disaster. Even three years later the proponents say that Measure 110 “needs more time.” But the fact is that Oregonians – who supported the Measure because it promised “treatment and recovery” have now seen the actual effects of this policy and are calling for change.

Overdose rates are rising at three times national averages and even higher for teens and youth. The pro-drug legalization advocates will attempt to say we “aren’t as bad as some other states” – but last I checked this isn’t a competition for whose least-worst. Active drug markets are present in our major cities and communities, and businesses are struggling to deal with the reality that decriminalization has created. The evidence speaks for itself if you are willing to look at it objectively.

The provisions in Measure 110 for writing “tickets” for possession of these deadly drugs have failed in both holding those in possession of these drugs accountable – and in encouraging them to find a pathway into treatment and recovery. Simultaneously, we have advertised that Oregon is “open for business” when it comes to these drugs – and invited both dealers – and users – to our state where anyone can access these drugs with essentially zero consequences. Are you aware that teens can easily buy drugs containing fentanyl on Snapchat and other social media platforms? The most recent Oregon Judicial Department Report on Measure 110 confirmed that less than 1% of those who received citations under this new law went through the process to receive a treatment evaluation and referral. Less than 1%.

## **2. There are practical solutions that will achieve the spirit of Measure 110.**

Both IP-47 and the proposals put forward to you by the League of Oregon Cities, the Oregon Sheriffs Association, the Chiefs of Police, and the Oregon District Attorneys Association - all offer a series of practical and implementable solutions that will be a step forward in addressing these challenges. One specific recommendation contained in all these proposals is to stop the failed “class E-violation” ticketing effort and reclassify possession of these drugs as misdemeanors. This seems to be where the heat is on this debate and the issues you are struggling with.

None of us who are recommending these changes are suggesting a return to 2019 – we are recommending various approaches that will allow individuals access to diversion programs – both pre-arrest and post-arrest. These approaches are designed

to provide those with substance use disorder an opportunity to seek treatment and recovery – through a combination of consequences and rewards. The plans also support a complete, automatic expungement of the individual's record at the end of the process. The goal is to use the minimal amount of criminal justice resources to help motivate and steer those in the midst of addiction to these deadly and dangerous drugs into treatment and recovery programs.

Early intercepts into treatment and recovery (offering diversion and expungement) at the misdemeanor level will help save lives and will keep some drug-addicted individuals from incurring more severe criminal penalties. We don't send people to prison for drug possession in Oregon – and we haven't in the last four decades. But there are large percentages of people in prison (and I speak from some experience on this subject) who are in prison because of their addiction and the crimes they committed to pay for drugs – either a felony property crime or a felony person crime. These are much more serious offenses, and they will have life-long consequences because of it. So frankly, the more humane and progressive approach is to provide the criminal justice system with the necessary tools to play an early intervention role that will have the highest likelihood of diverting someone away from using drugs that may kill them, cause long-term health consequences, or long-term criminal justice consequences.

You have certainly heard people say that mandatory or compelled treatment doesn't work. This is simply not true. I'd cite for you today the submitted testimony of Stanford Professor Keith Humphries, a former Obama White House drug policy advisor for your consideration. To suggest that justice system-compelled treatment doesn't work is disingenuous and ignores the data – not to mention the actual experience of more than 30 years of Oregon drug court programs – and the lived experience of literally thousands of Oregonians with substance abuse challenges who have benefited from such programs and today find themselves in recovery.

There are treatment providers today – with empty treatment beds – despite the overwhelming need – because the pathway and motivation to seek treatment were severed when decriminalization under Measure 110 went into effect.

Currently, under ballot measure 110, local law enforcement lacks the necessary tools to help people in their communities using and addicted to illegal drugs – and they are asking for these tools to be restored – and are joined by nearly three-quarters of all Oregonians who believe Oregon should recriminalize possession of these lethal and damaging drugs.

It is now being suggested that instead of making the use and possession of illegal drugs a misdemeanor crime, law enforcement should just confiscate drugs. First, without a charge attached, confiscation is unconstitutional. Secondly, it is in direct contradiction with the stated intent of Measure 110 – less law enforcement involvement. And finally, there is no safe way to do this for either party.

### **The Upside of Measure 110 is a Stable Source of Treatment Revenue.**

The primary upside of Measure 110 is its capture of cannabis tax revenue for investment in treatment and recovery services. We are grateful for the many organizations that are building capacity and providing meaningful treatment, peer support, and recovery services across the state. They need these resources – and a sense of stability – to make the necessary investments to meet these challenges. We recommend that you consider, as we did in IP-47, including a floor of funding for prevention, treatment, and recovery services – recognizing that the cannabis revenue is unstable. In addition, I think all your experts will say that the Measure 110 money alone will be insufficient to meet this challenge. We encourage you to find additional sources of revenue, blended streams of federal, state, and local funding, to address this challenge.

### 3. Oregon's Drug Decriminalization has Outsized Impacts on the Health of Oregon.

When I was serving in this body more than 20 years ago, we made the decision, because of the meth crisis, to put pseudoephedrine behind the counter and require a prescription to purchase it. That policy resulted in a huge drop in meth-houses and dramatically reduced the number of children and individuals exposed to those manufacturing the drug. It disrupted supplies and was seen as a common-sense solution to a serious problem. Those laws are still in place today.

We likewise have numerous other laws – particularly as it relates to youth – that are designed to keep people safe. We spend (and have spent) millions trying to convince youth that smoking, drinking alcohol, and riding a bike without a helmet are all bad ideas – and we've enacted laws to address these standards – that include varying levels of accountability. Yet, in Oregon today we are sending incredibly mixed signals about what we value as a community. Your own prevention witness in the first hearing told you that the youth she works with are convinced that Oregon's position on decriminalization will result in more youth addiction. And unlike a cigarette, your first experience with fentanyl may kill you. Yet, Oregon spends substantially less on prevention efforts for these lethal drugs than we do for tobacco prevention – and when we decriminalized these drugs for adults, we did it for juveniles as well – creating significant challenges for those in Oregon's Juvenile Justice system. What message do we want to send to Oregon's youth?

Finally, we've sent a broader message about our values as state. Communicating that we have decriminalized these lethal drugs like meth, heroin and fentanyl have caused serious damage to Oregon's national and international reputation. One only need read the New York Times, the Washington Post, the Atlantic and other national publications. Some may think that this doesn't matter. But there is little doubt that it is damaging Oregon's access to capital, investment, and tourism. It has combined with

other challenges we are facing to increase the amount of capital flight from Oregon as well.

You, however, have a chance to do something important – both at the individual level – and at the macro level – which is to send a signal that we are changing our mind about the decriminalization of these drugs – as well as ultimately delivering on the promise that Oregonians believed they were voting for with Ballot Measure 110. It's worth noting that the State of Washington - and the City of Seattle – both quickly acted to recriminalize possession of these drugs after they were, because of a court case, shortly decriminalized. What do we think we know – that the rest of the nation doesn't?

Of course, taking these actions won't solve all of Oregon's problems. You know as well as I do that many of our challenges are deeply woven into the broken institutional systems we have in this state. So please, while you work to make progress on that front, do not let those challenges stop you from acting now. Do not let the perfect become the enemy of the good. You can make real progress – at the individual and local level by fixing these policy issues – and you begin to send a message of confidence and trust to local governments and Oregonians alike and a strong message to the national and international community who is watching Oregon at this moment.

Thank you for allowing me to testify.