

# House Bill 3003

Sponsored by Representative KRUMMEL; Representatives BARKER, BOONE, BOQUIST, HUNT, KRIEGER, MAURER, NELSON, OLSON, THATCHER, WHISNANT, Senators L GEORGE, STARR

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits public bodies from paying for treatment of erectile dysfunction for sex offenders. Requires Department of State Police to provide information from Law Enforcement Data System to public bodies. Requires public bodies to use information to prevent use of state funds for treatment of erectile dysfunction for sex offenders.

## A BILL FOR AN ACT

1  
2 Relating to prohibition on publicly funded treatment of erectile dysfunction for sex offenders; cre-  
3 ating new provisions; and amending ORS 181.592, 243.560, 414.325, 423.020 and 426.072.

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

5 **SECTION 1. A public body may not provide or pay for any prescription drug or other**  
6 **therapy to treat erectile dysfunction for a person who is a sex offender as defined in ORS**  
7 **181.592. The Department of State Police shall provide information to public bodies necessary**  
8 **to carry out this section.**

9 **SECTION 2.** ORS 181.592 is amended to read:

10 181.592. (1) The Department of State Police shall enter into the Law Enforcement Data System  
11 the sex offender information obtained from the sex offender registration forms submitted under ORS  
12 181.595, 181.596 and 181.597. The department shall remove from the Law Enforcement Data System  
13 the sex offender information obtained from the sex offender registration form submitted under ORS  
14 181.595, 181.596 or 181.597 if the conviction or adjudication that gave rise to the registration obli-  
15 gation is reversed or vacated or if the registrant is pardoned.

16 (2)(a) When a person is under supervision for the first time as a result of a conviction for an  
17 offense requiring reporting as a sex offender, the department, a chief of police or a county sheriff  
18 shall release, upon request, only the following information about the sex offender:

19 (A) The sex offender's name and date of birth;

20 (B) A physical description of the sex offender and a photograph, if applicable;

21 (C) The name and zip code of the city where the sex offender resides;

22 (D) The name and telephone number of a contact person at the agency that is supervising the  
23 sex offender; and

24 (E) The name of institutions of higher education that the sex offender attends or at which the  
25 sex offender works or carries on a vocation.

26 (b) Notwithstanding paragraph (a) of this subsection, if the sex offender is under the supervision  
27 of the Oregon Youth Authority or a county juvenile department, the Department of State Police,  
28 chief or police or county sheriff shall release only:

29 (A) The sex offender's name and year of birth;

30 (B) The name and zip code of the city where the sex offender resides;

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (C) The name and telephone number of a contact person at the agency that is supervising the  
2 sex offender; and

3 (D) The name of institutions of higher education that the sex offender attends or at which the  
4 sex offender works or carries on a vocation.

5 (c) An agency that supervises a sex offender shall release, upon request, any information that  
6 may be necessary to protect the public concerning the sex offender.

7 (3) Except as otherwise limited by subsection (2)(a) and (b) of this section regarding persons who  
8 are under supervision for the first time as sex offenders, the Department of State Police, a chief of  
9 police or a county sheriff shall release, upon request, any information that may be necessary to  
10 protect the public concerning sex offenders who reside in a specific area or concerning a specific  
11 sex offender. However, the entity releasing the information may not release the identity of a victim  
12 of a sex crime.

13 (4)(a) The department may make the information described in subsections (2) and (3) of this  
14 section available to the public, without the need for a request, by electronic or other means. The  
15 department shall make information about a person who is under supervision for the first time as a  
16 result of a conviction for an offense that requires reporting as a sex offender accessible only by the  
17 use of the sex offender's name. For all other sex offenders, the department may make the information  
18 accessible in any manner the department chooses.

19 (b) Notwithstanding paragraph (a) of this subsection, the department may not use the Internet  
20 to make information available to the public except as required by paragraph (c) of this subsection.

21 (c) Notwithstanding subsections (2) and (3) of this section, the department shall use the Internet  
22 to make the information described in paragraph (d) of this subsection available to the public if the  
23 information is about a person:

24 (A) Determined to be a predatory sex offender, as provided in ORS 181.585, who has also been  
25 determined, pursuant to rules of the agency making the predatory sex offender determination, to  
26 present the highest risk of reoffending and to require the widest range of notification; or

27 (B) Found to be a sexually violent dangerous offender under ORS 144.635.

28 (d) The information required to be made available under paragraph (c) of this subsection is:

29 (A) The person's name and address;

30 (B) A physical description of the person including, but not limited to, the person's age, height,  
31 weight and eye and hair color;

32 (C) The type of vehicle that the person is known to drive;

33 (D) Any conditions or restrictions upon the person's probation, parole, post-prison supervision  
34 or conditional release;

35 (E) A description of the person's primary and secondary targets;

36 (F) A description of the person's method of offense;

37 (G) A current photograph of the person;

38 (H) If the person is under supervision, the name or telephone number of the person's parole and  
39 probation officer; and

40 (I) If the person is not under supervision, contact information for the Department of State Po-  
41 lice.

42 (5) The Law Enforcement Data System may send sex offender information to the National Crime  
43 Information Center as part of the national sex offender registry in accordance with appropriate state  
44 and federal procedures.

45 **(6) The department shall provide the names of sex offenders and other information nec-**

1 **essary to verify proper identification to any public body responsible for authorizing or pro-**  
 2 **viding publicly funded health insurance or treatment. Any public body that administers**  
 3 **publicly funded health insurance or treatment must use the information available from the**  
 4 **Law Enforcement Data System to prevent the use of public moneys for erectile dysfunction**  
 5 **treatment or therapies for sex offenders.**

6 [(6)] (7) As used in this section:

7 (a) "Attends," "institution of higher education," "sex crime," "works" and "carries on a  
 8 vocation" have the meanings given those terms in ORS 181.594.

9 (b) "Sex offender" means a person who is required to report under ORS 181.595, 181.596 or  
 10 181.597.

11 **SECTION 3.** ORS 243.560 is amended to read:

12 243.560. (1) The Public Employees' Benefit Board may provide, administer and maintain an ex-  
 13 pense reimbursement plan for the benefit of eligible employees of this state.

14 (2) In providing an expense reimbursement plan, the board shall adopt rules to:

15 (a) Determine the qualifications of eligible employees and the expenses eligible for reimburse-  
 16 ment.

17 (b) Establish limits on the amount by which an eligible employee's compensation may be re-  
 18 duced.

19 (c) Establish procedures for enrollment of eligible employees in an expense reimbursement plan.

20 (d) Establish requirements for verification of reimbursable expenses.

21 (3) The board may assess a charge to participating employees to pay the cost of administering  
 22 the plan or may pay some or all of the cost from funds authorized to pay general administration  
 23 expenses incurred by the board or from earnings on moneys deposited with the account administra-  
 24 tor as designated by the board.

25 (4) The state shall maintain accounts and records necessary and appropriate to the efficient  
 26 administration of ORS 243.550 to 243.585 and 657A.440 or that may be required under federal or  
 27 state law.

28 **(5) The rules adopted by the board to implement subsection (2)(a) of this section must**  
 29 **be in accordance with section 1 of this 2007 Act.**

30 **SECTION 4.** ORS 414.325, as amended by section 6, chapter 897, Oregon Laws 2001, section 191,  
 31 chapter 14, Oregon Laws 2003, section 2, chapter 91, Oregon Laws 2003, section 21, chapter 810,  
 32 Oregon Laws 2003, and section 9, chapter 692, Oregon Laws 2005, is amended to read:

33 414.325. (1) As used in this section, "legend drug" means any drug requiring a prescription by  
 34 a practitioner, as defined in ORS 689.005.

35 (2) **Subject to section 1 of this 2007 Act,** a licensed practitioner may prescribe such drugs  
 36 under this chapter as the practitioner in the exercise of professional judgment considers appropriate  
 37 for the diagnosis or treatment of the patient in the practitioner's care and within the scope of  
 38 practice. Prescriptions shall be dispensed in the generic form pursuant to ORS 689.515 and pursuant  
 39 to rules of the Department of Human Services unless the practitioner prescribes otherwise and an  
 40 exception is granted by the department.

41 (3) Except as provided in subsections (4) and (5) of this section, the department shall place no  
 42 limit on the type of legend drug that may be prescribed by a practitioner, but the department shall  
 43 pay only for drugs in the generic form unless an exception has been granted by the department.

44 (4) Notwithstanding subsection (3) of this section, an exception must be applied for and granted  
 45 before the department is required to pay for minor tranquilizers and amphetamines and amphetamine

1 derivatives, as defined by rule of the department.

2 (5)(a) Notwithstanding subsections (1) to (4) of this section and except as provided in paragraph  
3 (b) of this subsection, the department is authorized to:

4 (A) Withhold payment for a legend drug when federal financial participation is not available;  
5 and

6 (B) Require prior authorization of payment for drugs that the department has determined should  
7 be limited to those conditions generally recognized as appropriate by the medical profession.

8 (b) The department may not require prior authorization for therapeutic classes of nonsedating  
9 antihistamines and nasal inhalers, as defined by rule by the department, when prescribed by an  
10 allergist for treatment of any of the following conditions, as described by the Health Services Com-  
11 mission on the funded portion of its prioritized list of services:

12 (A) Asthma;

13 (B) Sinusitis;

14 (C) Rhinitis; or

15 (D) Allergies.

16 (6)(a) The department shall pay a rural health clinic for a legend drug prescribed and dispensed  
17 under this chapter by a licensed practitioner at the rural health clinic for an urgent medical con-  
18 dition if:

19 (A) There is not a pharmacy within 15 miles of the clinic;

20 (B) The prescription is dispensed for a patient outside of the normal business hours of any  
21 pharmacy within 15 miles of the clinic; or

22 (C) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.

23 (b) As used in this subsection, “urgent medical condition” means a medical condition that arises  
24 suddenly, is not life-threatening and requires prompt treatment to avoid the development of more  
25 serious medical problems.

26 (7) Notwithstanding ORS 414.334, the department may conduct prospective drug utilization re-  
27 view prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in the  
28 preceding six-month period.

29 (8) Notwithstanding subsection (3) of this section, the department may pay a pharmacy for a  
30 particular brand name drug rather than the generic version of the drug after notifying the pharmacy  
31 that the cost of the particular brand name drug, after receiving discounted prices and rebates, is  
32 equal to or less than the cost of the generic version of the drug.

33 **SECTION 5.** ORS 423.020 is amended to read:

34 423.020. (1) The Department of Corrections is created. The department shall:

35 (a) Supervise the management and administration of the Department of Corrections institutions,  
36 parole and probation services, community corrections and other functions related to state programs  
37 for corrections;

38 (b) Carry out legally mandated sanctions for the punishment of persons committed to its juris-  
39 diction by the courts of this state;

40 (c) Exercise custody over those persons sentenced to a period of incarceration until such time  
41 as a lawful release authority authorizes their release;

42 (d) Provide adequate food, clothing, health and medical care, sanitation and security for persons  
43 confined;

44 (e) Provide persons who are motivated, capable and cooperative with opportunities for self-  
45 improvement and work;

1 (f) Conduct investigations and prepare reports for release authorities; and

2 (g) Supervise persons sentenced or placed in the community for the period of time specified and  
 3 in accordance with conditions of supervision ordered by the release authority.

4 (2) The Department of Corrections may provide consultation services related to the criminal  
 5 justice system to local or statewide public or private agencies, groups, and individuals, or initiate  
 6 such consultation services. Consultation services shall include, but not be limited to, conducting  
 7 studies and surveys, sponsoring or participating in educational programs, and advising and assisting  
 8 these agencies, groups or individuals. Nothing in chapter 320, Oregon Laws 1987, is intended to di-  
 9 minish the state's efforts to plan, evaluate and deliver effective human services programs to  
 10 offenders, [either] **whether** in an institution or on probation or parole. Therefore, the Department  
 11 of Corrections and the Department of Human Services shall continue to jointly develop and imple-  
 12 ment needed social and rehabilitative services, including services for inmates housed in regional  
 13 minimum security facilities.

14 (3) The Department of Corrections shall be the recipient of all federal funds paid or to be paid  
 15 to the state to enable the state to provide corrections programs and services assigned to the De-  
 16 partment of Human Services before June 15, 1987.

17 (4) Notwithstanding any other provision of law, the department may charge a person confined  
 18 in a Department of Corrections institution a reasonable health care fee for any health care services,  
 19 medications and equipment provided the person during the person's confinement if the department:

20 (a) Provides necessary medical care regardless of the person's ability to pay;

21 (b) Provides equal treatment to all persons confined in a department institution regardless of a  
 22 person's ability to pay;

23 (c) Establishes a system that notifies the person of the fees and what services are covered; and

24 (d) Establishes a grievance system that allows a person to challenge the deduction of a fee from  
 25 the person's account.

26 (5) The department may provide ordinary medical, dental, psychiatric, psychological, hygienic  
 27 or other remedial care and treatment for a person under 18 years of age who is confined in a De-  
 28 partment of Corrections institution and, in an emergency in which the safety of the person appears  
 29 urgently to require it, may authorize surgery or other extraordinary care.

30 **(6) Health and medical care provided in accordance with this section is subject to section**  
 31 **1 of this 2007 Act.**

32 **SECTION 6.** ORS 426.072 is amended to read:

33 426.072. (1) A hospital or nonhospital facility and a treating physician must comply with the  
 34 following when an allegedly mentally ill person is placed in custody at the hospital or nonhospital  
 35 facility:

36 (a) By a warrant of detention under ORS 426.070;

37 (b) By a peace officer under ORS 426.228 or other person authorized under ORS 426.233; or

38 (c) By a physician under ORS 426.232.

39 (2) In circumstances described under subsection (1) of this section, the hospital or nonhospital  
 40 facility and treating physician must comply with the following:

41 (a) The person shall receive the care, custody and treatment required for mental and physical  
 42 health and safety;

43 (b) The treating physician shall report any care, custody and treatment to the court as required  
 44 in ORS 426.075;

45 (c) **Subject to section 1 of this 2007 Act**, all methods of treatment, including the prescription

1 and administration of drugs, shall be the sole responsibility of the treating physician. However, the  
2 person shall not be subject to electroshock therapy or unduly hazardous treatment and shall receive  
3 usual and customary treatment in accordance with medical standards in the community;

4 (d) The treating physician shall be notified immediately of any use of mechanical restraints on  
5 the person. Every use of a mechanical restraint and the reasons therefor shall be made a part of the  
6 clinical record of the person over the signature of the treating physician; and

7 (e) The treating physician shall give the person the warning under ORS 426.123 at times the  
8 treating physician determines the person will reasonably understand the notice. This paragraph only  
9 requires the notice to be given as often as the physician determines is necessary to assure that the  
10 person is given an opportunity to be aware of the notice.

11 (3) The Department of Human Services shall adopt rules necessary to carry out this section,  
12 including rules regarding the content of the medical record compiled during the current period of  
13 custody.

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