

# House Bill 2736

Sponsored by Representative GREENLICK; Representative SHIELDS

## 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**.

Allows Department of Human Services to provide grants to nonprofit organizations for treatment of persons with alcoholism and drug dependence.

## A BILL FOR AN ACT

1  
2 Relating to persons with addiction disorders; creating new provisions; and amending ORS 137.227,  
3 137.228, 430.306, 430.315, 430.325, 430.335, 430.338, 430.347 and 430.399.

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

5 **SECTION 1.** ORS 430.306 is amended to read:

6 430.306. As used in ORS **430.290**, 430.315 to 430.335, **430.342**, 430.397, [*and*] 430.399 **and**  
7 **430.420**, unless the context requires otherwise:

8 (1) [*“Alcoholic” means any person who has lost*] **“Alcoholism” means losing** the ability to con-  
9 trol the use of alcoholic beverages, or [*who uses*] **using** alcoholic beverages to the extent that the  
10 health of the person **with alcoholism** or that of others is substantially impaired or endangered or  
11 the social or economic function of the person is substantially disrupted. [*An alcoholic*] **A person**  
12 **with alcoholism** may be physically dependent, a condition in which the body requires a continuing  
13 supply of alcohol to avoid characteristic withdrawal symptoms, or psychologically dependent, a  
14 condition characterized by an overwhelming mental desire for continued use of alcoholic beverages.

15 (2) “Applicant” means a city, county, **nonprofit organization** or any combination thereof.

16 [(3) “Department” means the Department of Human Services.]

17 [(4) “Detoxification center” means a publicly or privately operated profit or nonprofit facility ap-  
18 proved by the department that provides emergency care or treatment for alcoholics or drug-dependent  
19 persons.]

20 [(5)] (3) “Director of the treatment facility” means the person in charge of treatment and reha-  
21 bilitation programs at a treatment facility.

22 [(6)] (4) [*“Drug-dependent person” means one who has lost*] **“Drug dependence” means losing**  
23 the ability to control the personal use of controlled substances or other substances with abuse po-  
24 tential, or [*who uses*] **using** such substances or controlled substances to the extent that the health  
25 of the person **with drug dependence** or that of others is substantially impaired or endangered or  
26 the social or economic function of the person is substantially disrupted. A [*drug-dependent*] person  
27 **with drug dependence** may be physically dependent, a condition in which the body requires a  
28 continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms,  
29 or psychologically dependent, a condition characterized by an overwhelming mental desire for con-  
30 tinued use of a drug or controlled substance.

31 [(7) “Halfway house” means a publicly or privately operated profit or nonprofit, residential facility

**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 approved by the department that provides rehabilitative care and treatment for alcoholics or drug-  
 2 dependent persons.]

3 [(8)] (5) “Local alcoholism planning committee” means a committee appointed or designated by  
 4 the county governing body under ORS 430.342.

5 [(9)] (6) “[Other] Treatment facility” includes outpatient facilities, inpatient facilities and such  
 6 other facilities as the Department of Human Services determines suitable, any of which may pro-  
 7 vide diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for [*al-*  
 8 *coholics or drug-dependent persons*] **persons with alcoholism or drug dependence** and which  
 9 operate in the form of a general hospital, a state hospital, a foster home, a hostel, a clinic or other  
 10 suitable form approved by the department.

11 **SECTION 2.** ORS 430.315 is amended to read:

12 430.315. The Legislative Assembly finds alcoholism or drug dependence is an illness. The [*alco-*  
 13 *holic or drug-dependent*] person **with alcoholism or drug dependence** is ill and should be afforded  
 14 treatment for that illness. To the greatest extent possible, the least costly settings for treatment,  
 15 outpatient services and residential facilities shall be widely available and utilized except when  
 16 contraindicated because of individual health care needs. State agencies that purchase treatment for  
 17 alcoholism or drug dependence shall develop criteria consistent with this policy in consultation with  
 18 the Department of Human Services. In reviewing applications for certificate of need, the Director  
 19 of Human Services shall take this policy into account.

20 **SECTION 3.** ORS 430.325 is amended to read:

21 430.325. (1) A political subdivision in this state shall not adopt or enforce any local law or reg-  
 22 ulation that makes any of the following an offense, a violation or the subject of criminal or civil  
 23 penalties or sanctions of any kind:

- 24 (a) Public intoxication.
- 25 (b) Public drinking, except as to places where any consumption of alcoholic beverages is gen-  
 26 erally prohibited.
- 27 (c) Drunk and disorderly conduct.
- 28 (d) Vagrancy or other behavior that includes as one of its elements either drinking alcoholic  
 29 beverages or using controlled substances in public, being [*an alcoholic or a drug-dependent*] a person  
 30 **with alcoholism or drug dependence**, or being found in specified places under the influence of al-  
 31 cohol or controlled substances.

32 (e) Using or being under the influence of controlled substances.

33 (2) Nothing in subsection (1) of this section shall affect any local law or regulation of any poli-  
 34 tical subdivision in this state against driving while under the influence of intoxicants, as defined in  
 35 ORS 813.010, or other similar offenses that involve the operation of motor vehicles.

36 **SECTION 4.** ORS 430.335 is amended to read:

37 430.335. Subject to the availability of funds therefor, the Department of Human Services may:

- 38 (1) Provide directly through publicly operated treatment facilities, which shall not be considered  
 39 to be state institutions, or by contract with publicly or privately operated profit or nonprofit treat-  
 40 ment facilities, for the care of [*alcoholics or drug-dependent*] persons **with alcoholism or drug de-**  
 41 **pendence**.
- 42 (2) Sponsor and encourage research of alcoholism and drug dependence.
- 43 (3) Seek to coordinate public and private programs relating to alcoholism and drug dependence.
- 44 (4) Apply for federally granted funds available for study or prevention and treatment of  
 45 alcoholism and drug dependence.

1 (5) Directly or by contract with public or private entities, administer financial assistance, loan  
2 and other programs to assist the development of drug and alcohol free housing.

3 **SECTION 5.** ORS 430.338 is amended to read:

4 430.338. The purposes of ORS 430.306, 430.338 to 430.380, 471.810, 473.030 and 473.050 are:

5 (1) To encourage local units of government to provide treatment and rehabilitation services to  
6 persons suffering from alcoholism;

7 (2) To foster sound local planning to address the problem of alcoholism and its social conse-  
8 quences;

9 (3) To promote a variety of treatment and rehabilitation services for [*alcoholics*] **individuals**  
10 **with alcoholism** designed to meet the therapeutic needs of diverse segments of a community's pop-  
11 ulation, recognizing that no single approach to alcoholism treatment and rehabilitation is suitable  
12 to every individual;

13 (4) To increase the independence and ability of individuals recovering from alcoholism to lead  
14 satisfying and productive lives, thereby reducing continued reliance upon therapeutic support;

15 (5) To insure sufficient emphasis upon the unique treatment and rehabilitation needs of minori-  
16 ties; and

17 (6) To stimulate adequate evaluation of alcoholism treatment and rehabilitation programs.

18 **SECTION 6.** ORS 430.347 is amended to read:

19 430.347. As used in ORS 430.345 to 430.380:

20 (1) "Applicant" means a county, a [*or*] combination of counties **or a nonprofit organization.**

21 (2) "**Detoxification center**" means a **publicly or privately operated profit or nonprofit fa-**  
22 **ility approved by the Department of Human Services that provides emergency care or**  
23 **treatment for persons with alcoholism or drug dependence.**

24 (3) "**Halfway house**" means a **publicly or privately operated profit or nonprofit facility**  
25 **approved by the department that provides rehabilitative care and treatment for persons with**  
26 **alcoholism or drug dependence.**

27 [(2)] (4) "Minorities" means persons who are:

28 (a) Black Americans or persons having origins in any of the black racial groups of Africa.

29 (b) Hispanic Americans or persons of Mexican, Puerto Rican, Cuban, Central or South American  
30 or other Spanish culture or origin, regardless of race.

31 (c) Native Americans or persons who are American Indian, Eskimo, Aleut or Native Hawaiian.

32 (d) Asian-Pacific Americans or persons whose origins are from Japan, China, Taiwan, Korea,  
33 Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the United States Trust Territories of the  
34 Pacific or the Northern Marianas.

35 (e) Asian-Indian Americans or persons whose origins are from India, Pakistan or Bangladesh.

36 [(3)] (5) "Minority program" is a treatment and rehabilitation program that provides services  
37 primarily to minorities and that is intended to present treatment and rehabilitation opportunities  
38 designed to meet the particular needs of minorities, whether by its geographic location, methods of  
39 treatment or other factors.

40 **SECTION 7.** ORS 430.399 is amended to read:

41 430.399. (1) Any person who is intoxicated or under the influence of controlled substances in a  
42 public place may be taken or sent home or to a treatment facility by the police. However, if the  
43 person is incapacitated, the health of the person appears to be in immediate danger, or the police  
44 have reasonable cause to believe the person is dangerous to self or to any other person, the person  
45 shall be taken by the police to an appropriate treatment facility. A person shall be deemed inca-

1 incapacitated when in the opinion of the police officer or director of the treatment facility the person  
 2 is unable to make a rational decision as to acceptance of assistance.

3 (2) The director of the treatment facility shall determine whether a person shall be admitted as  
 4 a patient, or referred to another treatment facility or denied referral or admission. If the person is  
 5 incapacitated or the health of the person appears to be in immediate danger, or if the director has  
 6 reasonable cause to believe the person is dangerous to self or to any other person, the person must  
 7 be admitted. The person shall be discharged within 48 hours unless the person has applied for vol-  
 8 untary admission to the treatment facility.

9 (3) In the absence of any appropriate treatment facility, an intoxicated person or a person under  
 10 the influence of controlled substances who would otherwise be taken by the police to a treatment  
 11 facility may be taken to the city or county jail where the person may be held until no longer  
 12 intoxicated, under the influence of controlled substances or incapacitated.

13 (4) An intoxicated person or person under the influence of controlled substances, when taken  
 14 into custody by the police for a criminal offense, shall immediately be taken to the nearest appro-  
 15 priate treatment facility when the condition of the person requires emergency medical treatment.

16 (5) The records of a patient at a treatment facility shall not be revealed to any person other  
 17 than the director and staff of the treatment facility without the consent of the patient. A patient's  
 18 request that no disclosure be made of admission to a treatment facility shall be honored unless the  
 19 patient is incapacitated or disclosure of admission is required by ORS 430.397.

20 [(6) As used in this section, "treatment facility" has the meaning given "other treatment facility"  
 21 in ORS 430.306.]

22 **SECTION 8. ORS 430.397, 430.399 and 430.401 are added to and made a part of ORS chap-**  
 23 **ter 430.**

24 **SECTION 9.** ORS 137.227 is amended to read:

25 137.227. (1) After a defendant has been convicted of a crime, the court may cause the defendant  
 26 to be evaluated to determine if the defendant [*is an alcoholic or a drug-dependent person*] **has**  
 27 **alcoholism or drug dependence**, as those terms are defined in ORS 430.306. The evaluation shall  
 28 be conducted by an agency or organization designated under subsection (2) of this section.

29 (2) The court shall designate agencies or organizations to perform the evaluations required un-  
 30 der subsection (1) of this section. The designated agencies or organizations must meet the standards  
 31 set by the Department of Human Services to perform the evaluations for drug dependency and must  
 32 be approved by the department. Wherever possible, a court shall designate agencies or organizations  
 33 to perform the evaluations that are separate from those that may be designated to carry out a pro-  
 34 gram of treatment for [*alcohol*] **alcoholism** or drug dependency.

35 **SECTION 10.** ORS 137.228 is amended to read:

36 137.228. (1) When a defendant is sentenced for a crime, the court may enter a finding that the  
 37 defendant [*is an alcoholic or a drug-dependent person*] **has alcoholism or drug dependence**, as those  
 38 terms are defined in ORS 430.306. The finding may be based upon any evidence before the court,  
 39 including, but not limited to, the facts of the case, stipulations of the parties and the results of any  
 40 evaluation conducted under ORS 137.227.

41 (2) When the court finds that the defendant [*is an alcoholic or a drug-dependent person*] **has**  
 42 **alcoholism or drug dependence**, the court, when it sentences the defendant to a term of  
 43 imprisonment, shall direct the Department of Corrections to place the defendant in an appropriate  
 44 alcohol or drug treatment program, to the extent that resources are available. The alcohol or drug  
 45 treatment program shall meet the standards promulgated by the Department of Human Services

1 pursuant to ORS 430.357.

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