

**A-Engrossed**  
**Senate Bill 265**

Ordered by the Senate April 27  
Including Senate Amendments dated April 27

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**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.

Authorizes presiding judge of circuit court to establish mental health court program. Provides that individuals before circuit court may receive mental health treatment and other services under program. Allows court to require program participant to pay fees for treatment and other program services.

Authorizes disbursement of portion of forfeiture proceeds to mental health court programs.

**A BILL FOR AN ACT**

1  
2 Relating to mental health court programs; creating new provisions; and amending ORS 137.656,  
3 167.350, 475A.120 and 475A.126.

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

5 **SECTION 1. (1) The presiding judge of any circuit court may establish a mental health**  
6 **court program. Under the program, individuals who are before the circuit court may obtain**  
7 **mental health treatment and other program services and must report regularly to the court**  
8 **on the progress of their treatment. The court may use all sanctions available under law to**  
9 **ensure the accountability of an individual who participates in the program. To the extent**  
10 **possible, the court shall offer incentives for successful participation in the program, but the**  
11 **district attorney is not required to offer diversion or other incentives to individuals who**  
12 **participate in the program.**

13 **(2) If a mental health court program is established under this section, the presiding judge**  
14 **may appoint a local mental health court team. The team shall include, but is not limited to,**  
15 **the court, the district attorney for the county, one or more attorneys who represent indi-**  
16 **viduals participating in the program, one or more representatives from the county's com-**  
17 **munity corrections agency and mental health treatment and service providers. The team**  
18 **shall monitor the individuals' participation in treatment and ensure accountability.**

19 **(3)(a) The governing body of a county or a treatment provider may establish fees that**  
20 **individuals participating in a mental health court program may be required to pay for**  
21 **treatment and other program services.**

22 **(b) A court may order an individual to pay fees for participation in a mental health court**  
23 **program. Fees imposed under this subsection may not be paid to the court.**

24 **(4) Circuit court records that are maintained specifically for the purpose of a mental**  
25 **health court program:**

**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 (a) Must be maintained separately from other circuit court records; and

2 (b) Are confidential and may not be disclosed except in accordance with regulations  
3 adopted under 42 U.S.C. 290dd-2 or as provided in subsections (5) to (8) of this section.

4 (5) If the individual who is the subject of a record described in subsection (4) of this  
5 section gives written consent, the record may be disclosed to members of the local mental  
6 health court team in order to develop treatment plans, monitor progress in treatment and  
7 determine outcomes of the individual's participation in the mental health court program.

8 (6) A record described in subsection (4) of this section may not be introduced into evi-  
9 dence in any legal proceeding other than the mental health court program unless:

10 (a) The individual who is the subject of the record gives written consent for introduction  
11 of the record; or

12 (b) The court finds good cause for introduction.

13 (7) In determining whether good cause exists for purposes of subsection (6)(b) of this  
14 section, the court shall weigh the public interest and the need for disclosure against the  
15 potential injury caused by the disclosure to:

16 (a) The individual who is the subject of the record;

17 (b) Any physician-patient relationship; and

18 (c) The treatment services being provided to the individual who is the subject of the re-  
19 cord.

20 (8) A court, the State Court Administrator or the Oregon Criminal Justice Commission  
21 may use records described in subsection (4) of this section and other mental health court  
22 program information to track and develop statistics about the effectiveness, costs and other  
23 areas of public interest concerning mental health court programs. A court, the State Court  
24 Administrator or the Oregon Criminal Justice Commission may release statistics developed  
25 under this subsection and analyses based on the statistics to the public. Statistics and ana-  
26 lyses released under this subsection may not contain any information that identifies an in-  
27 dividual participant in a mental health court program.

28 **SECTION 2.** ORS 137.656 is amended to read:

29 137.656. (1) The purpose of the Oregon Criminal Justice Commission is to improve the effec-  
30 tiveness and efficiency of state and local criminal justice systems by providing a centralized and  
31 impartial forum for statewide policy development and planning.

32 (2) The primary duty of the commission is to develop and maintain a state criminal justice policy  
33 and comprehensive, long-range plan for a coordinated state criminal justice system that encompasses  
34 public safety, offender accountability, crime reduction and prevention and offender treatment and  
35 rehabilitation. The plan must include, but need not be limited to, recommendations regarding:

36 (a) Capacity, utilization and type of state and local prison and jail facilities;

37 (b) Implementation of community corrections programs;

38 (c) Alternatives to the use of prison and jail facilities;

39 (d) Appropriate use of existing facilities and programs;

40 (e) Whether additional or different facilities and programs are necessary;

41 (f) Methods of assessing the effectiveness of juvenile and adult correctional programs, devices  
42 and sanctions in reducing future criminal conduct by juvenile and adult offenders;

43 (g) Methods of reducing the risk of future criminal conduct; and

44 (h) The effective utilization of local public safety coordinating councils.

45 (3) Other duties of the commission are:

1 (a) To conduct joint studies by agreement with other state agencies, boards or commissions on  
2 any matter within the jurisdiction of the commission.

3 (b) To provide Oregon criminal justice analytical and statistical information to federal agencies  
4 and **to** serve as a clearinghouse and information center for the collection, preparation, analysis and  
5 dissemination of information on state and local sentencing practices.

6 (c) To provide technical assistance and support to local public safety coordinating councils.

7 (d) To receive grant applications to start or expand drug court programs as defined in ORS  
8 3.450, to *[make]* **adopt** rules to govern the grant process and to award grant funds according to the  
9 rules.

10 **(e) To receive grant applications to establish or expand mental health court programs**  
11 **described in section 1 of this 2009 Act, to adopt rules to govern the grant process and to**  
12 **award grant funds according to the rules.**

13 (4) The commission shall establish by rule the information that must be submitted under ORS  
14 137.010 (9) and the methods for submitting the information. A rule adopted under this subsection  
15 must be approved by the Chief Justice of the Supreme Court before it takes effect.

16 **SECTION 3.** ORS 167.350 is amended to read:

17 167.350. (1) In addition to and not in lieu of any other sentence it may impose, a court may re-  
18 quire a defendant convicted under ORS 167.315 to 167.333 or 167.340 to forfeit any rights of the  
19 defendant in the animal subjected to the violation, and to repay the reasonable costs incurred by  
20 any person or agency prior to judgment in caring for each animal subjected to the violation.

21 (2) When the court orders the defendant's rights in the animal to be forfeited, the court may  
22 further order that those rights be given over to an appropriate person or agency demonstrating a  
23 willingness to accept and care for the animal or to the county or an appropriate animal care agency  
24 for further disposition in accordance with accepted practices for humane treatment of animals. This  
25 subsection does not limit the right of the person or agency to whom rights are granted to resell or  
26 otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a  
27 transfer of ownership.

28 (3) In addition to and not in lieu of any other sentence it may impose, a court may order the  
29 owner or person having custody of an animal to repay the reasonable costs incurred by any person  
30 or agency in providing minimum care to the animal.

31 (4)(a) A court may order a person convicted under ORS 167.315 to 167.333 or 167.340 to:

32 (A) Participate in available animal cruelty prevention programs or education programs, or  
33 both; *[ or to]*

34 (B) Obtain psychological counseling for treatment of mental health disorders that, in the court's  
35 judgment, contributed to the commission of the crime; **or** *[.]*

36 **(C) Participate in a mental health court program under section 1 of this 2009 Act.**

37 (b) The person shall bear any costs incurred by the person for participation in counseling or  
38 treatment programs under this subsection.

39 (5) ORS 131.550 to 131.600 do not apply to the forfeiture of an animal subjected to a violation  
40 of ORS 167.315 to 167.333 or 167.340. Any such animal is subject to forfeiture as provided in sub-  
41 sections (1) to (3) of this section.

42 **SECTION 4.** ORS 475A.120 is amended to read:

43 475A.120. (1) The provisions of this section apply to a forfeiting agency other than the state.

44 (2) Except as otherwise provided by intergovernmental agreement and this section, a forfeiting  
45 agency may:

1 (a) Sell, lease, lend or transfer forfeited property to any federal, state or local law enforcement  
2 agency or district attorney.

3 (b) Sell forfeited property by public or other commercially reasonable sale and pay from the  
4 proceeds the expenses of keeping and selling the property.

5 (c) Retain forfeited property.

6 (d) With written authorization from the district attorney for the county in which the property  
7 was seized, destroy any forfeited firearms or controlled substances.

8 (3) If the forfeiting agency is a political subdivision other than a county, the political subdivision  
9 shall enter into an agreement with the county pursuant to ORS chapter 190 to provide a portion of  
10 the forfeiture proceeds to the county. Any intergovernmental agreements or ordinances providing  
11 for the distribution of forfeiture proceeds in effect on July 24, 1989, shall remain valid unless  
12 changed by the parties.

13 (4) A forfeiting agency shall distribute forfeiture proceeds as follows:

14 (a) Costs shall be paid first, including costs, disbursements and attorney fees as defined in ORCP  
15 68 A and special expenses, including the provision of lawful currency, incurred by any seizing or  
16 forfeiting agency in investigating and prosecuting a specific case. The forfeiting agency may pay  
17 expenses of servicing or maintaining the seized property under ORS 475A.045 (3) under the pro-  
18 visions of this paragraph. The forfeiting agency may not pay expenditures made in connection with  
19 the ordinary maintenance and operation of the seizing or forfeiting agency under the provisions of  
20 this paragraph.

21 (b) After payment of costs under paragraph (a) of this subsection, the forfeiting agency shall:

22 (A) Deduct an amount equal to five percent of the proceeds and deposit that amount in the Il-  
23 legal Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS 475.495 (5);

24 (B) Deduct an amount equal to 2.5 percent of the proceeds and deposit that amount in the Asset  
25 Forfeiture Oversight Account established by ORS 475A.160 for the purposes specified in ORS  
26 475A.155;

27 (C) Deduct an amount equal to 20 percent of the proceeds and deposit that amount in the  
28 Oregon Criminal Justice Commission Account established under ORS 137.662 for disbursement to  
29 drug court programs [as] described in ORS 3.450 **and mental health court programs described in**  
30 **section 1 of this 2009 Act;** and

31 (D) Deduct an amount equal to 10 percent of the proceeds and deposit that amount in the State  
32 Commission on Children and Families Account established by ORS 417.733 for disbursement to relief  
33 nurseries as described in ORS 417.788.

34 (c) If the forfeiting agency has entered into an agreement with a county under subsection (3)  
35 of this section, after paying costs under paragraph (a) of this subsection and making the deductions  
36 required by paragraph (b) of this subsection, the forfeiting agency shall pay the county the amounts  
37 required by the agreement.

38 (d) After making all payments and deductions required by paragraphs (a) to (c) of this sub-  
39 section, the forfeiting agency may use forfeiture proceeds, including amounts received by a county  
40 under paragraph (c) of this subsection and pursuant to an intergovernmental agreement entered into  
41 under ORS 475A.115, only for:

42 (A) The purchase of equipment necessary for the enforcement of laws relating to the unlawful  
43 delivery, distribution, manufacture or possession of controlled substances;

44 (B) Cash for use in law enforcement activities;

45 (C) Drug awareness and drug education programs offered in middle schools and high schools;

1 (D) The expenses of a forfeiting agency in operating joint narcotic operations with other for-  
2 feiting agencies pursuant to the terms of an intergovernmental agreement, including paying for  
3 rental space, utilities and office equipment; and

4 (E) Expenses of a district attorney in criminal prosecutions for unlawful delivery, distribution,  
5 manufacture or possession of controlled substances, as determined through intergovernmental  
6 agreement between the forfeiting agency and the district attorney.

7 (5) Notwithstanding subsection (4) of this section, growing equipment and laboratory equipment  
8 seized by a forfeiting agency that was used, or intended for use, in the manufacturing of controlled  
9 substances may be donated to a public school, community college or institution of higher education.

10 (6) A political subdivision shall sell as much property as may be needed to make the distrib-  
11 utions required by subsection (4) of this section. Distributions required under subsection (4)(b) of this  
12 section must be made once every three months and are due within 20 days of the end of each  
13 quarter. No interest shall accrue on amounts that are paid within the period specified by this sub-  
14 section.

15 (7) The forfeiting agency, and any agency which receives forfeited property or proceeds from the  
16 sale of forfeited property, shall maintain written documentation of each sale, decision to retain,  
17 transfer or other disposition.

18 (8) Forfeiture counsel shall report each forfeiture to the Asset Forfeiture Oversight Advisory  
19 Committee as soon as reasonably possible after the conclusion of forfeiture proceedings, whether or  
20 not the forfeiture results in an entry of judgment under ORS 475A.110. The committee shall develop  
21 and make available forms for the purpose of reporting forfeitures.

22 (9) Law enforcement agencies shall supply to forfeiture counsel all information requested by  
23 forfeiture counsel necessary for the preparation of the report required by subsection (8) of this  
24 section.

25 (10) Political subdivisions of the state who receive forfeiture proceeds under this section shall  
26 submit a report to the Asset Forfeiture Oversight Advisory Committee for any year in which those  
27 proceeds are received. The committee shall develop and make available forms for the purpose of  
28 those reports. The forms shall require the political subdivision to report on how proceeds received  
29 by the political subdivision have been or will be used, and such other information as may be re-  
30 quested by the committee. Reports shall be submitted each December 15 for the last ending fiscal  
31 year of the political subdivision.

32 (11) This section applies only to forfeiture proceeds arising out of prohibited conduct as defined  
33 by ORS 475A.005 (11), and does not apply to proceeds from forfeiture based on other conduct.

34 **SECTION 5.** ORS 475A.126 is amended to read:

35 475A.126. (1) The provisions of this section apply only when the forfeiting agency is the state.

36 (2) Except as otherwise provided by intergovernmental agreement and this section, a forfeiting  
37 agency may:

38 (a) Sell, lease, lend or transfer forfeited property to any federal, state or local law enforcement  
39 agency or district attorney.

40 (b) Sell forfeited property by public or other commercially reasonable sale and pay from the  
41 proceeds the expenses of keeping and selling the property.

42 (c) Retain forfeited property.

43 (d) With written authorization from the district attorney for the county in which the property  
44 was seized, destroy any forfeited firearms or controlled substances.

45 (3) The forfeiting agency shall distribute forfeiture proceeds as follows:

1 (a) Costs shall be paid first, including costs, disbursements and attorney fees as defined in ORCP  
2 68 A and special expenses, including the provision of lawful currency, incurred by any seizing or  
3 forfeiting agency in investigating and prosecuting a specific case. The forfeiting agency may pay  
4 expenses of servicing or maintaining the seized property under ORS 475A.045 (3) under the pro-  
5 visions of this paragraph. The forfeiting agency may not pay expenditures made in connection with  
6 the ordinary maintenance and operation of the seizing or forfeiting agency under the provisions of  
7 this paragraph. Any amount paid to or retained by the Department of Justice under this paragraph  
8 shall be deposited in the Criminal Justice Revolving Account in the State Treasury. Any amount  
9 paid to or retained by the Oregon State Police under this paragraph shall be deposited in the State  
10 Police Account.

11 (b) After payment of costs under paragraph (a) of this subsection, the forfeiting agency shall:

12 (A) Deduct an amount equal to 10 percent of the proceeds and deposit that amount in the Illegal  
13 Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS 475.495 (5);

14 (B) Deduct an amount equal to three percent of the proceeds, not to exceed \$50,000 in a  
15 biennium, and deposit that amount in the Asset Forfeiture Oversight Account established by ORS  
16 475A.160 for the purposes specified in ORS 475A.155;

17 (C) Deduct an amount equal to 20 percent of the proceeds and deposit that amount in the  
18 Oregon Criminal Justice Commission Account established under ORS 137.662 for disbursement to  
19 drug court programs [as] described in ORS 3.450 **and mental health court programs described in**  
20 **section 1 of this 2009 Act;** and

21 (D) Deduct an amount equal to 10 percent of the proceeds and deposit that amount in the State  
22 Commission on Children and Families Account established by ORS 417.733 for disbursement to relief  
23 nurseries as described in ORS 417.788.

24 (c) If the forfeiting agency has entered into an intergovernmental agreement with a political  
25 subdivision under ORS 475A.115, or has entered into an agreement with any other law enforcement  
26 agency of the state relating to distribution of forfeiture proceeds, after paying costs under paragraph  
27 (a) of this subsection and making the deductions required by paragraph (b) of this subsection, the  
28 forfeiting agency shall pay an equitable portion of the forfeiture proceeds to each agency partic-  
29 ipating in the seizure or forfeiture as provided by the agreement.

30 (d) After making all payments and deductions required by paragraphs (a) to (c) of this sub-  
31 section, the forfeiting agency shall distribute the remaining proceeds as follows:

32 (A) If no law enforcement agency other than the Department of Justice participated in the sei-  
33 zure or forfeiture, the remaining proceeds, and proceeds received by the Department of Justice un-  
34 der paragraph (c) of this subsection, shall be divided between the Criminal Justice Revolving  
35 Account and the Special Crime and Forfeiture Account established by ORS 475A.130 according to  
36 the following schedule:

37 (i) One hundred percent of the first \$200,000 accumulated shall be deposited in the Criminal  
38 Justice Revolving Account.

39 (ii) Seventy-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving  
40 Account and the balance in the Special Crime and Forfeiture Account.

41 (iii) Fifty percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Ac-  
42 count and the balance in the Special Crime and Forfeiture Account.

43 (iv) Twenty-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving  
44 Account and the balance in the Special Crime and Forfeiture Account.

45 (v) One hundred percent of all additional sums shall be deposited in the Special Crime and

1 Forfeiture Account.

2 (B) If no law enforcement agency other than the Department of State Police participated in the  
3 seizure or forfeiture, the remaining proceeds, and proceeds received by the Department of State  
4 Police under paragraph (c) of this subsection, shall be divided between the State Police Account and  
5 the Special Crime and Forfeiture Account according to the following schedule:

6 (i) One hundred percent of the first \$600,000 accumulated shall be deposited in the State Police  
7 Account.

8 (ii) Seventy-five percent of the next \$300,000 shall be deposited in the State Police Account and  
9 the balance in the Special Crime and Forfeiture Account.

10 (iii) Fifty percent of the next \$200,000 shall be deposited in the State Police Account and the  
11 balance in the Special Crime and Forfeiture Account.

12 (iv) Twenty-five percent of the next \$200,000 shall be deposited in the State Police Account and  
13 the balance in the Special Crime and Forfeiture Account.

14 (v) One hundred percent of all additional sums shall be deposited in the Special Crime and  
15 Forfeiture Account.

16 (4) Forfeiture proceeds distributed under subsection (3)(d) of this section may be used only for:

17 (a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful  
18 delivery, distribution, manufacture or possession of controlled substances;

19 (b) Cash for use in law enforcement activities;

20 (c) Drug awareness and drug education programs offered in middle schools and high schools; and

21 (d) The expenses of a forfeiting agency in operating joint narcotic operations with other for-  
22 feiting agencies pursuant to the terms of an intergovernmental agreement, including paying for  
23 rental space, utilities and office equipment.

24 (5) A forfeiting agency shall sell as much property as may be needed to make the distributions  
25 required by subsection (3) of this section. Distributions required under subsection (3)(b) of this sec-  
26 tion must be made once every three months and are due within 20 days of the end of each quarter.  
27 No interest shall accrue on amounts that are paid within the period specified by this subsection.

28 (6) The forfeiting agency, and any agency that receives forfeited property or proceeds from the  
29 sale of forfeited property, shall maintain written documentation of each sale, decision to retain,  
30 transfer or other disposition of the property or proceeds.

31 (7) Forfeiture counsel shall report each forfeiture to the Asset Forfeiture Oversight Advisory  
32 Committee as soon as reasonably possible after the conclusion of forfeiture proceedings, whether or  
33 not the forfeiture results in an entry of judgment under ORS 475A.110. The committee shall develop  
34 and make available forms for the purpose of reporting forfeitures.

35 (8) Law enforcement agencies shall supply to forfeiture counsel all information requested by  
36 forfeiture counsel necessary for the preparation of the report required by subsection (7) of this  
37 section.

38