

PRELIMINARY STAFF MEASURE SUMMARY

Joint Committee On Ways and Means

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date:

Action:

Meeting Dates:

Prepared By: Kim To, Fiscal Analyst

WHAT THE MEASURE DOES:

Extends criminal and civil immunity to sobering facility and staff, registered with Oregon Health Authority (OHA) *before* January 1, 2016 for acting on probable cause in good faith without malice. Extends criminal and civil immunity to sobering facility and staff registered with OHA on or *after* January 1, 2016 for acting on probable cause in good faith without gross negligence. Defines sobering facility as one that: provides acutely intoxicated persons with safe, clean, supervised environment until sobriety improves; affiliates with OHA-approved addictions treatment program or provider; adopts comprehensive written policies and procedures incorporating best practices for safety of intoxicated persons, employees and volunteers; and is registered with OHA. Requires OHA to establish registry of sobering facilities. Permits OHA to register only facilities in operation when Act becomes effective and has submitted written request to OHA by December 31, 2015. Permits OHA to accept written requests from new sobering facilities after January 1, 2016, but prohibits registering more than three. Requires OHA to report on sobering facilities each regular legislative session beginning with 2017. Requires affiliated providers to enter into written agreement to consult, train, advise and make referrals. Allows for discharge of person who is danger to self or others within first 24 hours of admission. Prohibits disclosure of records without consent. Allows law enforcement to transport intoxicated person to sobering facility. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Proposed amendment
- Fiscal impact

EFFECT OF COMMITTEE AMENDMENT:

Amendment includes Oregon State Police in the definition of “police officer,” and specifies that “police officer” includes a member of a law enforcement unit who is commissioned or employed part-time and full-time.

BACKGROUND:

Chapter 430 of the Oregon Revised Statutes governs mental health, developmental disabilities and alcohol and drug treatment programs. Law enforcement personnel are permitted to take any person who is intoxicated or under the influence of a controlled substance in a public place, either to their home or to a treatment facility. Treatment facilities for this purpose are defined as those that meet certain minimum standards for diagnosis and evaluation, medical care, detoxification, social services, or rehabilitation services for alcoholics and drug dependent persons. These facilities are immune from civil or criminal liability so long as they act in good faith with probable cause and without malice.

Many small jurisdictions do not have qualifying treatment facilities, leaving acutely intoxicated persons with few safe alternatives to detoxify. House Bill 2936 extends similar civil and criminal immunity to less-comprehensive sobering facilities as provided treatment facilities. The measure establishes criteria that sobering facilities must meet to receive immunity, including affiliation with approved providers to refer individuals for appropriate

treatment and develop best practices. The measure also limits the number of sobering facilities that may register after January 1, 2016 and protects the confidentiality of records of persons who are admitted.