

STAFF MEASURE SUMMARY**House Committee On Judiciary****Fiscal:** Has minimal fiscal impact**Revenue:** No Revenue Impact**Action Date:** 04/20/15**Action:** Without Recommendation, With Amendments, Be Printed Engrossed And Be Referred To Rules.**Meeting Dates:** 03/19, 04/16, 04/20**Vote:**

Yeas: 9 - Barker, Barton, Greenlick, Krieger, Lininger, Olson, Post, Sprenger, Williamson

Prepared By: Jeff Rhoades, Counsel**WHAT THE MEASURE DOES:**

Extends criminal and civil immunity to sobering facilities for actions taken in good faith, with probable cause and without malice. Defines “sobering facility” as either a stand-alone facility or part of larger facility that contracts with or is affiliated with addiction treatment provider approved by Oregon Health Authority. Requires that provider must provide consultation training and advice and enter into written agreement with facility that includes plan to make referrals. Allows sobering facility employee to discharge admitted person who is danger to self or others provided person is discharged within 24 hours. Protects records disclosure without intoxicated person’s consent. Allows police to take intoxicated person to sobering facility. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- How sobering facilities operate
- The problems with providing immunity under the law
- Lack of options for law enforcement dealing with acutely intoxicated persons in small counties

EFFECT OF COMMITTEE AMENDMENT:

Defines “sobering facility” to state that it can be either stand-alone or part of larger facility that contracts with or is affiliated with addiction treatment provider approved by Oregon Health Authority. Requires that provider give consultation, training and advice, and enter into written agreement with facility that includes plan to make referrals. Modifies ORS 430.099 to add “sobering facility” to list of places acutely intoxicated person may be taken if under the influence in public place. Allows sobering facility employee to discharge admitted person who is danger to self or others provided person discharged within 24 hours.

BACKGROUND:

Chapter 430 of the Oregon Revised Statutes regulates Mental Health, Developmental Disabilities and Alcohol and Drug Treatment Programs. Under the current drafting of the law, the police may take any person who is intoxicated or under the influence of a controlled substance in a public place either to their home or a treatment facility.

“Treatment facility” is specifically defined in ORS 430.306(9) as an outpatient facility, inpatient facility and other facility that the authority determines suitable and that provides services that meet certain minimum standards for diagnosis and evaluation, medical care, detoxification, social services or rehabilitation for alcoholics and drug dependent persons. ORS 430.401 provides civil and criminal immunity for such treatment facilities provided the actions taken are in good faith, on probable cause and without malice.

Many smaller counties and municipalities do not have treatment facilities such as those defined in statute. As a result, police officers do not have a place for those individuals who are acutely intoxicated in public and cannot go to their homes. House Bill 2936 A seeks to remedy this scenario by extending sobering facilities the same civil and

criminal immunity given to treatment facilities with more comprehensive programs. The bill specifies that, in order for a sobering facility to be extended immunity, it must contract with or be affiliated with an addiction treatment provider that is approved by the Oregon Health Authority. This provider must give consultation and advice, as well as enter into a written agreement that allows for persons in the sobering facility to be referred to appropriate treatment. Because sobering facilities do not create doctor/patient confidential relationships, House Bill 2936 A specifies that no records obtained on the person at the facility may be revealed without the person's consent.