

STAFF MEASURE SUMMARY

House Committee On Rules

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 06/03/15

Action: Do Pass As Amended, Be Printed Engrossed, And Bill Be Referred To Ways And Means.

Meeting Dates: 06/03

Vote:

Yeas: 9 - Barnhart, Gilliam, Hoyle, Kennemer, McLane, Nosse, Rayfield, Smith Warner, Wilson

Prepared By: Erin Seiler, Committee Administrator

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:

- Inclusion of sobering facility on treatment continuum
- Limited tools and resources available to law enforcement to assist intoxicated individuals
- Ability to refer individual for additional treatment
- Reducing health care costs
- Grandfathering-in existing sobering facilities
- Limited expansion to new sobering facilities
- Assessment of sobering facilities through regular reports to legislature
- Tool to ensure safety of intoxicated individuals

EFFECT OF COMMITTEE AMENDMENT:

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. Defines police officer. Requires OHA to establish registry of sobering facilities. Specifies content of written requirements for registration. 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. Specifies information to be included in report. Extends criminal and civil immunity to sobering facility

****CORRECTED****

and staff, registered with 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.

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-B 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.