

House Bill 2936

Sponsored by COMMITTEE ON HEALTH CARE (at the request of The Grants Pass Sobering Center)

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**.

Defines "sobering facility." Extends civil and criminal immunity to sobering facilities for actions taken in good faith, on probable cause and without malice. Allows police to take intoxicated person to sobering facility. Protects from disclosure without person's consent records of admission to sobering facility.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to substance abuse treatment; creating new provisions; amending ORS 430.306, 430.399 and
3 430.401; and declaring an emergency.

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 430.315, 430.335, 430.342, 430.397, 430.399, **430.401**, 430.402, 430.420 and
7 430.630, unless the context requires otherwise:

8 (1) "Alcoholic" means any person who has lost the ability to control the use of alcoholic
9 beverages, or who uses alcoholic beverages to the extent that the health of the person or that of
10 others is substantially impaired or endangered or the social or economic function of the person is
11 substantially disrupted. An alcoholic may be physically dependent, a condition in which the body
12 requires a continuing supply of alcohol to avoid characteristic withdrawal symptoms, or
13 psychologically dependent, a condition characterized by an overwhelming mental desire for contin-
14 ued use of alcoholic beverages.

15 [(2) "*Applicant*" means a city, county or any combination thereof.]

16 [(3) "*Authority*" means the Oregon Health Authority.]

17 [(4)] (2) "Detoxification center" means a publicly or privately operated profit or nonprofit facil-
18 ity approved by the authority that provides emergency care or treatment for alcoholics or drug-
19 dependent 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 the ability to control the personal use
23 of controlled substances or other substances with abuse potential, or who uses such substances or
24 controlled substances to the extent that the health of the person or that of others is substantially
25 impaired or endangered or the social or economic function of the person is substantially disrupted.
26 A drug-dependent person may be physically dependent, a condition in which the body requires a
27 continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms,
28 or psychologically dependent, a condition characterized by an overwhelming mental desire for con-
29 tinued use of a drug or controlled substance.

30 [(7)] (5) "Halfway house" means a publicly or privately operated profit or nonprofit, residential

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 facility approved by the authority that provides rehabilitative care and treatment for alcoholics or
 2 drug-dependent persons.

3 [(8)] (6) “Local planning committee” means a local planning committee for alcohol and drug
 4 prevention and treatment services appointed or designated by the county governing body under ORS
 5 430.342.

6 (7) **“Sobering facility” means a facility operated solely to provide shelter for a person who**
 7 **is intoxicated until the person regains sobriety.**

8 [(9)] (8) “Treatment facility” includes outpatient facilities, inpatient facilities and other facilities
 9 the authority determines suitable and that provide services that meet minimum standards estab-
 10 lished under ORS 430.357, any of which may provide diagnosis and evaluation, medical care,
 11 detoxification, social services or rehabilitation for alcoholics or drug-dependent persons and which
 12 operate in the form of a general hospital, a state hospital, a foster home, a hostel, a clinic or other
 13 suitable form approved by the authority.

14 **SECTION 2.** ORS 430.399 is amended to read:

15 430.399. (1) Any person who is intoxicated or under the influence of controlled substances in a
 16 public place may be taken or sent home, **or taken to a sobering facility** or to a treatment facility
 17 by the police. However, if the person is incapacitated, the health of the person appears to be in
 18 immediate danger, or the police have reasonable cause to believe the person is dangerous to self or
 19 to any other person, the person shall be taken by the police to an appropriate treatment facility.
 20 A person shall be deemed incapacitated when in the opinion of the police officer or director of the
 21 treatment facility the person is unable to make a rational decision as to acceptance of assistance.

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

28 (3) In the absence of any appropriate treatment facility **or sobering facility**, an intoxicated
 29 person or a person under the influence of controlled substances who would otherwise be taken by
 30 the police to a treatment facility **or sobering facility** may be taken to the city or county jail where
 31 the person may be held until no longer intoxicated, under the influence of controlled substances or
 32 incapacitated.

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

36 (5) The records of a [patient] **person** at a treatment facility **or sobering facility** may not,
 37 **without the person’s consent**, be revealed to any person other than the director and staff of the
 38 treatment facility [without the consent of the patient] **or sobering facility**. A [patient’s] **person’s** re-
 39 quest that no disclosure be made of admission to a treatment facility **or sobering facility** shall be
 40 honored unless the [patient] **person** is incapacitated or disclosure of admission is required by ORS
 41 430.397.

42 **SECTION 3.** ORS 430.401, as amended by section 47, chapter 45, Oregon Laws 2014, is amended
 43 to read:

44 430.401. No peace officer, treatment facility **or sobering facility** and staff, physician, physician
 45 assistant, nurse practitioner or judge shall be held criminally or civilly liable for actions pursuant

1 to ORS 430.315, 430.335, 430.397 to 430.401 and 430.402 provided the actions are in good faith, on
2 probable cause and without malice.

3 **SECTION 4. The amendments to ORS 430.401 by section 3 of this 2015 Act apply only to**
4 **causes of action arising on or after the effective date of this 2015 Act.**

5 **SECTION 5. This 2015 Act being necessary for the immediate preservation of the public**
6 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
7 **on its passage.**

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