

(Including Amendments to Resolve Conflicts)

## B-Engrossed House Bill 2355

Ordered by the House July 4  
Including House Amendments dated April 5 and July 4

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Attorney General Ellen Rosenblum)

### 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.

Directs Oregon Criminal Justice Commission to develop method for recording data concerning officer-initiated pedestrian and traffic stops. Directs Department of Public Safety Standards and Training to develop training and procedures for recording data.

Requires law enforcement agencies to begin recording required officer-involved pedestrian and traffic stop data beginning on date based on size of agency. Requires agencies to provide recorded data to commission beginning on date based on size of agency. Requires that data not individually identify law enforcement officers or persons who were subject of traffic stops.

Requires Oregon Criminal Justice Commission to review, using statistical analysis, officer-initiated pedestrian and traffic stop data received from law enforcement agencies, and report no later than December 1, 2019, and annually thereafter, to Department of Public Safety Standards and Training, Governor and committees or interim committees of Legislative Assembly related to judiciary. Directs department to review report received from commission. Authorizes department to provide advice and technical assistance to law enforcement agency named in report. Directs department to report assistance to local public safety coordinating council in public meeting.

Directs Department of State Police to develop standardized profiling complaint report form. Specifies contents of form and manner in which law enforcement agency submits form to Law Enforcement Contacts Policy and Data Review Committee.

Reduces crime classification of unlawful possession of controlled substance in Schedule I. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both, except in specified circumstances. Retains current crime classification if possession is of usable quantity and is commercial drug offense, if person has prior felony conviction or two or more prior unlawful possession of controlled substance convictions, or if person possesses certain quantity of controlled substance.

Reduces crime classification of unlawful possession of controlled substance in Schedule II. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both, except in specified circumstances. Retains current crime classification if possession is of usable quantity and is commercial drug offense, if person has prior felony conviction or two or more prior unlawful possession of controlled substance convictions, or if person possesses certain quantity of controlled substance.

Requires county to supervise offenders convicted of certain drug-related misdemeanors. Provides that person convicted of certain drug-related misdemeanors qualifies for earned reduction in term of probation. Provides that justice courts and municipal courts do not have jurisdiction over certain drug-related misdemeanors.

Reduces maximum term of imprisonment for Class A misdemeanor crime from one year to 364 days.

Reduces maximum period of institutionalization or commitment, from one year to 364 days, for youth offender found to have committed act that, if committed by adult, would constitute Class A misdemeanor.

Directs Oregon Criminal Justice Commission to study impact of possession of controlled substance crime classification reduction and report on results of study to committees of Legislative Assembly related to judiciary no later than September 15, 2018.

**Increases General Fund appropriations to commission and to Department of State Police for purposes of implementing Act. Increases expenditure limitations for Department of State Police and for Department of Public Safety Standards and Training for purposes of implementing Act.**

Declares emergency, effective on passage.

1 Relating to public safety; creating new provisions; amending ORS 51.050, 131.915, 131.920, 131.925,  
2 137.633, 161.570, 161.615, 181A.410, 221.339, 419C.501, 423.478, 423.525, 475.005, 475.752, 475.824,  
3 475.834, 475.854, 475.874, 475.884 and 475.894; and declaring an emergency.

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

5 **SECTION 1. As used in sections 1 to 4 of this 2017 Act:**

6 (1) **“Law enforcement agency” means an agency employing law enforcement officers to**  
7 **enforce criminal laws.**

8 (2) **“Law enforcement officer” means a member of the Oregon State Police, a sheriff or**  
9 **a municipal police officer.**

10 (3) **“Officer-initiated pedestrian stop” means a detention of a pedestrian by a law**  
11 **enforcement officer, not associated with a call for service, when the detention results in a**  
12 **citation, an arrest or a consensual search of the pedestrian’s body or property. The term**  
13 **does not apply to detentions for routine searches performed at the point of entry to or exit**  
14 **from a controlled area.**

15 (4) **“Officer-initiated traffic stop” means a detention of a driver of a motor vehicle by a**  
16 **law enforcement officer, not associated with a call for service, for the purpose of investi-**  
17 **gating a suspected violation of the Oregon Vehicle Code.**

18 (5) **“Profiling” means the targeting of an individual by a law enforcement agency or a law**  
19 **enforcement officer, on suspicion of the individual’s having violated a provision of law, based**  
20 **solely on the individual’s real or perceived age, race, ethnicity, color, national origin, lan-**  
21 **guage, sex, gender identity, sexual orientation, political affiliation, religion, homelessness or**  
22 **disability, unless the agency or officer is acting on a suspect description or information re-**  
23 **lated to an identified or suspected violation of a provision of law.**

24 (6) **“Sexual orientation” has the meaning given that term in ORS 174.100.**

25 **SECTION 2. (1) No later than July 1, 2018, the Oregon Criminal Justice Commission, in**  
26 **consultation with the Department of State Police and the Department of Justice, shall de-**  
27 **velop and implement a standardized method to be used by law enforcement officers to record**  
28 **officer-initiated pedestrian stop and officer-initiated traffic stop data. The standardized**  
29 **method must require, and any form developed and used pursuant to the standardized method**  
30 **must provide for, the following data to be recorded for each stop:**

31 (a) **The date and time of the stop;**

32 (b) **The location of the stop;**

33 (c) **The race, ethnicity, age and sex of the pedestrian or the operator of the motor vehicle**  
34 **stopped, based on the observations of the law enforcement officer responsible for reporting**  
35 **the stop;**

36 (d) **The nature of, and the statutory citation for, the alleged traffic violation, or other**  
37 **alleged violation, that caused the stop to be made; and**

38 (e) **The disposition of the stop, including whether a warning, citation or summons was**  
39 **issued, whether a search was conducted, the type of search conducted, whether anything was**  
40 **found as a result of the search and whether an arrest was made.**

41 (2) **No later than July 1, 2018, the Department of Public Safety Standards and Training,**  
42 **in consultation with law enforcement agencies, shall develop and implement training and**  
43 **procedures to facilitate the collection of officer-initiated pedestrian and traffic stop data**  
44 **pursuant to subsection (1) of this section.**

45 (3) **Beginning on the dates described in subsection (4) of this section, all law enforcement**

1 agencies that engage in officer-initiated pedestrian or traffic stops shall record and retain  
2 the following data for each stop:

3 (a) The date and time of the stop;

4 (b) The location of the stop;

5 (c) The race, ethnicity, age and sex of the pedestrian or the operator of the motor vehicle  
6 stopped, based on the observations of the law enforcement officer responsible for reporting  
7 the stop;

8 (d) The nature of, and the statutory citation for, the alleged traffic violation, or other  
9 alleged violation, that caused the stop to be made; and

10 (e) The disposition of the stop, including whether a warning, citation or summons was  
11 issued, whether a search was conducted, the type of search conducted, whether anything was  
12 found as a result of the search and whether an arrest was made.

13 (4) Each law enforcement agency shall begin recording the data described in subsection  
14 (3) of this section as follows:

15 (a) An agency that employs 100 or more law enforcement officers shall begin recording  
16 no later than July 1, 2018.

17 (b) An agency that employs between 25 and 99 law enforcement officers shall begin re-  
18 cording no later than July 1, 2019.

19 (c) An agency that employs between one and 24 law enforcement officers shall begin re-  
20 cording no later than July 1, 2020.

21 (5) Each law enforcement agency that engages in officer-initiated traffic or pedestrian  
22 stops shall report to the Oregon Criminal Justice Commission the data recorded pursuant  
23 to subsection (3) of this section as follows:

24 (a) An agency that employs 100 or more law enforcement officers shall report no later  
25 than July 1, 2019, and at least annually thereafter.

26 (b) An agency that employs between 25 and 99 law enforcement officers shall report no  
27 later than July 1, 2020, and at least annually thereafter.

28 (c) An agency that employs between one and 24 law enforcement officers shall report no  
29 later than July 1, 2021, and at least annually thereafter.

30 (6) Data acquired under this section shall be used only for statistical purposes and not  
31 for any other purpose. The data may not contain information that reveals the identity of any  
32 stopped individual or the identity of any law enforcement officer. Data collected by law  
33 enforcement agencies or held by the Oregon Criminal Justice Commission under this section  
34 that may reveal the identity of any stopped individual or the identity of any law enforcement  
35 officer is exempt from public disclosure in any manner.

36 (7) The Department of Justice, the Department of Public Safety Standards and Training  
37 and the Department of State Police may adopt rules to carry out the provisions of sections  
38 1 to 4 of this 2017 Act.

39 **SECTION 3.** (1) The Oregon Criminal Justice Commission shall review all data, including  
40 the prevalence and disposition of officer-initiated pedestrian and traffic stops, reported by  
41 law enforcement agencies pursuant to section 2 of this 2017 Act in order to identify patterns  
42 or practices of profiling.

43 (2) The commission shall select one or more statistical analysis methodologies, deter-  
44 mined to be consistent with current best practices, with which to review the data as de-  
45 scribed in subsection (1) of this section.

1 (3) No later than December 1, 2019, and annually thereafter, the commission shall report  
2 the results of the review to the Governor, the Department of Public Safety Standards and  
3 Training and, in the manner provided in ORS 192.245, to the committees or interim commit-  
4 tees of the Legislative Assembly related to the judiciary.

5 **SECTION 4.** (1) The Department of Public Safety Standards and Training shall receive  
6 and review reports provided to the department by the Oregon Criminal Justice Commission  
7 pursuant to section 3 of this 2017 Act.

8 (2) Upon receipt of a report described in subsection (1) of this section, the department  
9 may provide advice or technical assistance to any law enforcement agency mentioned within  
10 the report. Any advice or technical assistance provided shall be based on best practices in  
11 policing as determined by the Oregon Center for Policing Excellence established in ORS  
12 181A.660.

13 (3) Upon providing advice or technical assistance under this section, the department  
14 shall, within a reasonable amount of time, present a summary of the advice and assistance  
15 given to the local public safety coordinating council in the county in which the assisted law  
16 enforcement agency is located. If the assisted law enforcement agency is the Oregon State  
17 Police, the presentation shall occur in Marion County. The presentation shall be open to the  
18 public, feature live testimony by presenters and be held in accordance with ORS 192.610 to  
19 192.690.

20 **SECTION 5.** ORS 131.925 is amended to read:

21 131.925. (1)(a) A law enforcement agency shall provide to the Law Enforcement Contacts Policy  
22 and Data Review Committee [*a copy of*] **information concerning** each complaint the agency re-  
23 ceives alleging profiling,[]

24 [(b)] [*The law enforcement agency*] **and** shall notify the committee of the disposition of the com-  
25 plaint, **in the manner described in this subsection.**

26 (b) The law enforcement agency shall submit to the committee a **profiling complaint re-**  
27 **port form summarizing each profiling complaint and the disposition of the complaint, and a**  
28 **copy of each profiling complaint, once each year no later than January 31.**

29 (c) The law enforcement agency shall submit the form described in paragraph (b) of this  
30 subsection even if the agency has not received any profiling complaints.

31 (d) The profiling complaint report form and copies of profiling complaints submitted to  
32 the committee may not include personal information concerning the complainant or a law  
33 enforcement officer except as to any personal information recorded on the form as described  
34 in subsection (4)(c) of this section.

35 (2)(a) A person may submit to the committee a complaint alleging profiling and the committee  
36 shall receive the complaints.

37 (b) The committee also shall receive complaints alleging profiling that are forwarded from a law  
38 enforcement agency.

39 (c) The committee shall forward a copy of each profiling complaint the committee receives to  
40 the law enforcement agency employing the officer that is the subject of the complaint. The for-  
41 warding complaint must include the name of the complainant unless the complainant requests to re-  
42 main anonymous, in which case the complainant's name must be redacted.

43 (3)(a) The committee [*shall*] **may** not release any personal information concerning a complainant  
44 or a law enforcement officer who is the subject of a profiling complaint.

45 (b) The personal information of complainants and of law enforcement officers who are the sub-

1 ject of profiling complaints are exempt from public disclosure under ORS 192.502.

2 [(c) As used in this subsection, “personal information” has the meaning given that term in ORS  
3 807.750.]

4 (4) **The Department of State Police shall develop a standardized profiling complaint report**  
5 **form. The form must provide for recording the following information:**

6 (a) **A summary of total complaints and a certification that a law enforcement agency’s**  
7 **profiling policy conforms to ORS 131.920;**

8 (b) **A summary of each complaint received by the law enforcement agency, including the**  
9 **date, time and location of the incident and the disposition of the complaint; and**

10 (c) **To the extent known, the complainant’s gender, gender identity, age, race, ethnicity,**  
11 **sexual orientation, primary language, national origin, religion, political affiliation, homeless**  
12 **status and disability status, recorded in a manner that does not identify the complainant.**

13 (5) **As used in this section, “personal information” has the meaning given that term in**  
14 **ORS 807.750.**

15 **SECTION 6.** ORS 131.915 is amended to read:

16 131.915. As used in ORS 131.915 to 131.925:

17 (1) “Law enforcement agency” means:

18 (a) The Department of State Police;

19 (b) The Department of Justice;

20 (c) A district attorney’s office; and

21 (d) Any of the following that maintains a law enforcement unit as defined in ORS 181A.355:

22 (A) A political subdivision or an instrumentality of the State of Oregon.

23 (B) A municipal corporation of the State of Oregon.

24 (C) A tribal government.

25 (D) A university.

26 (2) “Law enforcement officer” means:

27 (a) A member of the Oregon State Police;

28 (b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer  
29 commissioned by a university under ORS 352.121 or 353.125;

30 (c) An investigator of a district attorney’s office if the investigator is or has been certified as  
31 a law enforcement officer in this or any other state;

32 (d) An investigator of the Criminal Justice Division of the Department of Justice;

33 (e) A humane special agent as defined in ORS 181A.345;

34 (f) A judicial marshal of the Security and Emergency Preparedness Office of the Judicial De-  
35 partment who is appointed under ORS 1.177 and trained pursuant to ORS 181A.540;

36 (g) A liquor enforcement inspector exercising authority described in ORS 471.775 (2); or

37 (h) An authorized tribal police officer as defined in ORS 181A.680.

38 (3) “Profiling” means *[that]* **the targeting of an individual by** a law enforcement agency or a  
39 law enforcement officer *[targets an individual for]*, **on** suspicion of *[violating]* **the individual’s hav-**  
40 **ing violated** a provision of law, based solely on the **individual’s** real or perceived *[factor of the*  
41 *individual’s]* age, race, ethnicity, color, national origin, language, *[gender]* **sex**, gender identity, sex-  
42 ual orientation, political affiliation, religion, homelessness or disability, unless the agency or officer  
43 is acting on a suspect description or information related to an identified or suspected violation of  
44 a provision of law.

45 (4) “Sexual orientation” has the meaning given that term in ORS 174.100.

1       **SECTION 7.** ORS 131.920 is amended to read:

2       131.920. (1) All law enforcement agencies shall have written policies and procedures prohibiting  
3 profiling. The policies and procedures shall, at a minimum, include:

4       (a) A prohibition on profiling;

5       (b) Procedures allowing a complaint alleging profiling to be made to the agency:

6       (A) In person;

7       (B) In a writing signed by the complainant and delivered by hand, postal mail, facsimile or  
8 electronic mail; or

9       (C) By telephone, anonymously or through a third party;

10       (c) The provision of appropriate forms to use for submitting complaints alleging profiling;

11       (d) Procedures for submitting a copy of each profiling complaint to the Law Enforcement Con-  
12 tacts Policy and Data Review Committee and for receiving profiling complaints forwarded from the  
13 committee; and

14       (e) Procedures for investigating all complaints alleging profiling.

15       (2) A law enforcement agency shall:

16       (a) Investigate all complaints alleging profiling that are received by the agency or forwarded  
17 from the committee.

18       (b) *[Establish a time frame within which a complaint alleging profiling may be made to the agency.*  
19 *The time frame may not be fewer than 90 days or more than 180 days after the alleged commission of*  
20 *profiling.]* **Accept for investigation a complaint alleging profiling that is made to the agency**  
21 **within 180 days of the alleged profiling incident.**

22       (c) **Respond to every complaint alleging profiling within a reasonable time after the con-**  
23 **clusion of the investigation. The response must contain a statement of the final disposition**  
24 **of the complaint.**

25       **SECTION 8.** ORS 181A.410, as amended by section 42, chapter 117, Oregon Laws 2016, is  
26 amended to read:

27       181A.410. (1) In accordance with any applicable provision of ORS chapter 183, to promote  
28 enforcement of law and fire services by improving the competence of public safety personnel and  
29 their support staffs, and in consultation with the agencies for which the Board on Public Safety  
30 Standards and Training and Department of Public Safety Standards and Training provide standards,  
31 certification, accreditation and training:

32       (a) The department shall recommend, and the board shall establish by rule, reasonable minimum  
33 standards of physical, emotional, intellectual and moral fitness for public safety personnel and in-  
34 structors.

35       (b) The department shall recommend, and the board shall establish by rule, reasonable minimum  
36 training for all levels of professional development, basic through executive, including but not limited  
37 to courses or subjects for instruction and qualifications for public safety personnel and instructors.  
38 Training requirements shall be consistent with the funding available in the department's  
39 legislatively approved budget.

40       (c) The department, in consultation with the board, shall establish by rule a procedure or pro-  
41 cedures to be used by law enforcement units, public or private safety agencies or the Oregon Youth  
42 Authority to determine whether public safety personnel meet minimum standards or have minimum  
43 training.

44       (d) Subject to such terms and conditions as the department may impose, the department shall  
45 certify instructors and public safety personnel, except youth correction officers, as being qualified

1 under the rules established by the board.

2 (e) The department shall deny applications for training and deny, suspend and revoke certifica-  
3 tion in the manner provided in ORS 181A.630, 181A.640 and 181A.650 (1).

4 (f) The department shall cause inspection of standards and training for instructors and public  
5 safety personnel, except youth correction officers, to be made.

6 (g) The department may recommend, and the board may establish by rule, accreditation stan-  
7 dards, levels and categories for mandated and nonmandated public safety personnel training or ed-  
8 ucational programs. The department and board, in consultation, may establish to what extent  
9 training or educational programs provided by an accredited university, college, community college  
10 or public safety agency may serve as equivalent to mandated training or as a prerequisite to man-  
11 dated training. Programs offered by accredited universities, colleges or community colleges may be  
12 considered equivalent to mandated training only in academic areas.

13 **(h) The department shall recommend, and the board shall establish by rule, an educa-**  
14 **tional program that the board determines will be most effective in reducing profiling, as de-**  
15 **defined in ORS 131.915, by police officers and reserve officers. The program must be required**  
16 **at all levels of training, including basic training and advanced, leadership and continuing**  
17 **training.**

18 (2) The department may:

19 (a) Contract or otherwise cooperate with any person or agency of government for the procure-  
20 ment of services or property;

21 (b) Accept gifts or grants of services or property;

22 (c) Establish fees for determining whether a training or educational program meets the accred-  
23 itation standards established under subsection (1)(g) of this section;

24 (d) Maintain and furnish to law enforcement units and public and private safety agencies infor-  
25 mation on applicants for appointment as instructors or public safety personnel, except youth cor-  
26 rection officers, in any part of the state; and

27 (e) Establish fees to allow recovery of the full costs incurred in providing services to private  
28 entities or in providing services as experts or expert witnesses.

29 (3) The department, in consultation with the board, may:

30 (a) Upon the request of a law enforcement unit or public safety agency, conduct surveys or aid  
31 cities and counties to conduct surveys through qualified public or private agencies and assist in the  
32 implementation of any recommendations resulting from such surveys.

33 (b) Upon the request of law enforcement units or public safety agencies, conduct studies and  
34 make recommendations concerning means by which requesting units can coordinate or combine their  
35 resources.

36 (c) Conduct and stimulate research to improve the police, fire service, corrections, adult parole  
37 and probation, emergency medical dispatch and telecommunicator professions.

38 (d) Provide grants from funds appropriated or available therefor, to law enforcement units,  
39 public safety agencies, special districts, cities, counties and private entities to carry out the pro-  
40 visions of this subsection.

41 (e) Provide optional training programs for persons who operate lockups. The term "lockup" has  
42 the meaning given it in ORS 169.005.

43 (f) Provide optional training programs for public safety personnel and their support staffs.

44 (g) Enter into agreements with federal, state or other governmental agencies to provide training  
45 or other services in exchange for receiving training, fees or services of generally equivalent value.

1 (h) Upon the request of a law enforcement unit or public safety agency employing public safety  
2 personnel, except youth correction officers, grant an officer, fire service professional, telecommu-  
3 nicator or emergency medical dispatcher a multidiscipline certification consistent with the minimum  
4 requirements adopted or approved by the board. Multidiscipline certification authorizes an officer,  
5 fire service professional, telecommunicator or emergency medical dispatcher to work in any of the  
6 disciplines for which the officer, fire service professional, telecommunicator or emergency medical  
7 dispatcher is certified. The provisions of ORS 181A.500, 181A.520 and 181A.530 relating to lapse of  
8 certification do not apply to an officer or fire service professional certified under this paragraph as  
9 long as the officer or fire service professional maintains full-time employment in one of the certified  
10 disciplines and meets the training standards established by the board.

11 (i) Establish fees and guidelines for the use of the facilities of the training academy operated  
12 by the department and for nonmandated training provided to federal, state or other governmental  
13 agencies, private entities or individuals.

14 (4) Pursuant to ORS chapter 183, the board, in consultation with the department, shall adopt  
15 rules necessary to carry out the board's duties and powers.

16 (5) Pursuant to ORS chapter 183, the department, in consultation with the board, shall adopt  
17 rules necessary to carry out the department's duties and powers.

18 (6) For efficiency, board and department rules may be adopted jointly as a single set of combined  
19 rules with the approval of the board and the department.

20 (7) The department shall obtain approval of the board before submitting its legislative concepts,  
21 Emergency Board request or agency request budget to the Oregon Department of Administrative  
22 Services.

23 (8) The Department of Public Safety Standards and Training shall develop a training program  
24 for conducting investigations required under ORS 181A.790.

25 **SECTION 9.** ORS 475.752, as amended by section 59, chapter 24, Oregon Laws 2016, and section  
26 26, chapter 21, Oregon Laws 2017 (Enrolled Senate Bill 302), is amended to read:

27 475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful  
28 for any person to manufacture or deliver a controlled substance. Any person who violates this sub-  
29 section with respect to:

30 (a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise pro-  
31 vided in ORS 475.886 and 475.890.

32 (b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise  
33 provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906.

34 (c) A controlled substance in Schedule III, is guilty of a Class C felony, except as otherwise  
35 provided in ORS 475.904 and 475.906.

36 (d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

37 (e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

38 (2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any  
39 person to create or deliver a counterfeit substance. Any person who violates this subsection with  
40 respect to:

41 (a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

42 (b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

43 (c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

44 (d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.

45 (e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.



1 (3) It is unlawful for any person knowingly or intentionally to possess a controlled substance  
2 unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a  
3 practitioner while acting in the course of professional practice, or except as otherwise authorized  
4 by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with re-  
5 spect to:

6 (a) A controlled substance in Schedule I, is guilty of a Class [*B felony*] **A misdemeanor**, except  
7 as otherwise provided in ORS **475.854, 475.874 and 475.894 and subsection (7) of this section.**

8 (b) A controlled substance in Schedule II, is guilty of a Class [*C felony*] **A misdemeanor, except**  
9 **as otherwise provided in ORS 475.824, 475.834 or 475.884 or subsection (8) of this section.**

10 (c) A controlled substance in Schedule III, is guilty of a Class A misdemeanor.

11 (d) A controlled substance in Schedule IV, is guilty of a Class C misdemeanor.

12 (e) A controlled substance in Schedule V, is guilty of a violation.

13 (4) In any prosecution under this section for manufacture, possession or delivery of that plant  
14 of the genus *Lophophora* commonly known as peyote, it is an affirmative defense that the peyote is  
15 being used or is intended for use:

16 (a) In connection with the good faith practice of a religious belief;

17 (b) As directly associated with a religious practice; and

18 (c) In a manner that is not dangerous to the health of the user or others who are in the prox-  
19 imity of the user.

20 (5) The affirmative defense created in subsection (4) of this section is not available to any person  
21 who has possessed or delivered the peyote while incarcerated in a correctional facility in this state.

22 (6)(a) Notwithstanding subsection (1) of this section, a person who unlawfully manufactures or  
23 delivers a controlled substance in Schedule IV and who thereby causes death to another person is  
24 guilty of a Class C felony.

25 (b) For purposes of this subsection, causation is established when the controlled substance plays  
26 a substantial role in the death of the other person.

27 **(7) Notwithstanding subsection (3)(a) of this section, unlawful possession of a controlled**  
28 **substance in Schedule I is a Class B felony if:**

29 **(a) The person possesses a usable quantity of the controlled substance and:**

30 **(A) At the time of the possession, the person has a prior felony conviction;**

31 **(B) At the time of the possession, the person has two or more prior convictions for un-**  
32 **lawful possession of a usable quantity of a controlled substance; or**

33 **(C) The possession is a commercial drug offense under ORS 475.900 (1)(b); or**

34 **(b) The person possesses:**

35 **(A) Forty or more user units of a mixture or substance containing a detectable amount**  
36 **of lysergic acid diethylamide; or**

37 **(B) Twelve grams or more of a mixture or substance containing a detectable amount of**  
38 **psilocybin or psilocin.**

39 **(8) Notwithstanding subsection (3)(b) of this section, unlawful possession of a controlled**  
40 **substance in Schedule II is a Class C felony if the person possesses a usable quantity of the**  
41 **controlled substance and:**

42 **(a) At the time of the possession, the person has a prior felony conviction;**

43 **(b) At the time of the possession, the person has two or more prior convictions for un-**  
44 **lawful possession of a usable quantity of a controlled substance; or**

45 **(c) The possession is a commercial drug offense under ORS 475.900 (1)(b).**

**SECTION 10.** ORS 475.824 is amended to read:

475.824. (1) It is unlawful for any person knowingly or intentionally to possess methadone unless the methadone was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of methadone is a Class [C felony] **A misdemeanor.**

**(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a Class C felony if:**

**(A) The person possesses a usable quantity of methadone and:**

**(i) At the time of the possession, the person has a prior felony conviction;**

**(ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or**

**(iii) The possession is a commercial drug offense under ORS 475.900 (1)(b); or**

**(B) The person possesses 40 or more user units of a mixture or substance containing a detectable amount of methadone.**

**SECTION 11.** ORS 475.834 is amended to read:

475.834. (1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless the oxycodone was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of oxycodone is a Class [C felony] **A misdemeanor.**

**(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of oxycodone is a Class C felony if:**

**(A) The person possesses a usable quantity of oxycodone and:**

**(i) At the time of the possession, the person has a prior felony conviction;**

**(ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or**

**(iii) The possession is a commercial drug offense under ORS 475.900 (1)(b); or**

**(B) The person possesses 40 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of oxycodone.**

**SECTION 12.** ORS 475.854 is amended to read:

475.854. (1) It is unlawful for any person knowingly or intentionally to possess heroin.

(2)(a) Unlawful possession of heroin is a Class [B felony] **A misdemeanor.**

**(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class B felony if:**

**(A) The person possesses a usable quantity of heroin and:**

**(i) At the time of the possession, the person has a prior felony conviction;**

**(ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or**

**(iii) The possession is a commercial drug offense under ORS 475.900 (1)(b); or**

**(B) The person possesses one gram or more of a mixture or substance containing a detectable amount of heroin.**

**SECTION 13.** ORS 475.874 is amended to read:

475.874. (1) It is unlawful for any person knowingly or intentionally to possess 3,4-methylenedioxymethamphetamine.

1 (2)(a) Unlawful possession of 3,4-methylenedioxyamphetamine is a Class [B felony] A  
2 misdemeanor.

3 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of  
4 3,4-methylenedioxyamphetamine is a Class B felony if:

5 (A) The person possesses a usable quantity of 3,4-methylenedioxyamphetamine and:

6 (i) At the time of the possession, the person has a prior felony conviction;

7 (ii) At the time of the possession, the person has two or more prior convictions for un-  
8 lawful possession of a usable quantity of a controlled substance; or

9 (iii) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

10 (B) The person possesses one gram or more or five or more pills, tablets or capsules of  
11 a mixture or substance containing a detectable amount of:

12 (i) 3,4-methylenedioxyamphetamine;

13 (ii) 3,4-methylenedioxyamphetamine; or

14 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

15 **SECTION 14.** ORS 475.884 is amended to read:

16 475.884. (1) It is unlawful for any person knowingly or intentionally to possess cocaine unless  
17 the substance was obtained directly from, or pursuant to, a valid prescription or order of a practi-  
18 tioner while acting in the course of professional practice, or except as otherwise authorized by ORS  
19 475.005 to 475.285 and 475.752 to 475.980.

20 (2)(a) Unlawful possession of cocaine is a Class [C felony] A misdemeanor.

21 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a  
22 Class C felony if:

23 (A) The person possesses a usable quantity of cocaine and:

24 (i) At the time of the possession, the person has a prior felony conviction;

25 (ii) At the time of the possession, the person has two or more prior convictions for un-  
26 lawful possession of a usable quantity of a controlled substance; or

27 (iii) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

28 (B) The person possesses two grams or more of a mixture or substance containing a de-  
29 tectable amount of cocaine.

30 **SECTION 15.** ORS 475.894 is amended to read:

31 475.894. (1) It is unlawful for any person knowingly or intentionally to possess methamphetamine  
32 unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a  
33 practitioner while acting in the course of professional practice, or except as otherwise authorized  
34 by ORS 475.005 to 475.285 and 475.752 to 475.980.

35 (2)(a) Unlawful possession of methamphetamine is a Class [C felony] A misdemeanor.

36 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of metham-  
37 phetamine is a Class C felony if:

38 (A) The person possesses a usable quantity of methamphetamine and:

39 (i) At the time of the possession, the person has a prior felony conviction;

40 (ii) At the time of the possession, the person has two or more prior convictions for un-  
41 lawful possession of a usable quantity of a controlled substance; or

42 (iii) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

43 (B) The person possesses two grams or more of a mixture or substance containing a de-  
44 tectable amount of methamphetamine.

45 **SECTION 16.** ORS 475.005 is amended to read:

1 475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires  
2 otherwise:

3 (1) "Abuse" means the repetitive excessive use of a drug short of dependence, without legal or  
4 medical supervision, which may have a detrimental effect on the individual or society.

5 (2) "Administer" means the direct application of a controlled substance, whether by injection,  
6 inhalation, ingestion or any other means, to the body of a patient or research subject by:

7 (a) A practitioner or an authorized agent thereof; or

8 (b) The patient or research subject at the direction of the practitioner.

9 (3) "Administration" means the Drug Enforcement Administration of the United States Depart-  
10 ment of Justice, or its successor agency.

11 (4) "Agent" means an authorized person who acts on behalf of or at the direction of a man-  
12 ufacturer, distributor or dispenser. It does not include a common or contract carrier, public  
13 warehouseman or employee of the carrier or warehouseman.

14 (5) "Board" means the State Board of Pharmacy.

15 (6) "Controlled substance":

16 (a) Means a drug or its immediate precursor classified in Schedules I through V under the fed-  
17 eral Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the  
18 term "precursor" in this paragraph does not control and is not controlled by the use of the term  
19 "precursor" in ORS 475.752 to 475.980.

20 (b) Does not mean industrial hemp, as defined in ORS 571.300, or industrial hemp commodities  
21 or products.

22 (7) "Counterfeit substance" means a controlled substance or its container or labeling, which,  
23 without authorization, bears the trademark, trade name, or other identifying mark, imprint, number  
24 or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person  
25 who in fact manufactured, delivered or dispensed the substance.

26 (8) "Deliver" or "delivery" means the actual, constructive or attempted transfer, other than by  
27 administering or dispensing, from one person to another of a controlled substance, whether or not  
28 there is an agency relationship.

29 (9) "Device" means instruments, apparatus or contrivances, including their components, parts  
30 or accessories, intended:

31 (a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or  
32 animals; or

33 (b) To affect the structure of any function of the body of humans or animals.

34 (10) "Dispense" means to deliver a controlled substance to an ultimate user or research subject  
35 by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering,  
36 packaging, labeling or compounding necessary to prepare the substance for that delivery.

37 (11) "Dispenser" means a practitioner who dispenses.

38 (12) "Distributor" means a person who delivers.

39 (13) "Drug" means:

40 (a) Substances recognized as drugs in the official United States Pharmacopoeia, official  
41 Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement  
42 to any of them;

43 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of  
44 disease in humans or animals;

45 (c) Substances (other than food) intended to affect the structure or any function of the body of

1 humans or animals; and

2 (d) Substances intended for use as a component of any article specified in paragraph (a), (b) or  
3 (c) of this subsection; however, the term does not include devices or their components, parts or ac-  
4 cessories.

5 (14) "Electronically transmitted" or "electronic transmission" means a communication sent or  
6 received through technological apparatuses, including computer terminals or other equipment or  
7 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,  
8 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

9 (15) "Manufacture" means the production, preparation, propagation, compounding, conversion  
10 or processing of a controlled substance, either directly or indirectly by extraction from substances  
11 of natural origin, or independently by means of chemical synthesis, or by a combination of extraction  
12 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or  
13 relabeling of its container, except that this term does not include the preparation or compounding  
14 of a controlled substance:

15 (a) By a practitioner as an incident to administering or dispensing of a controlled substance in  
16 the course of professional practice; or

17 (b) By a practitioner, or by an authorized agent under the practitioner's supervision, for the  
18 purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

19 (16) "Marijuana":

20 (a) Except as provided in this subsection, means all parts of the plant Cannabis family  
21 Moraceae, whether growing or not; the resin extracted from any part of the plant; and every com-  
22 pound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin.

23 (b) Does not mean the mature stalks of the plant, fiber produced from the stalks, oil or cake  
24 made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or  
25 preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the  
26 sterilized seed of the plant which is incapable of germination.

27 (c) Does not mean industrial hemp, as defined in ORS 571.300, or industrial hemp commodities  
28 or products.

29 (17) "Person" includes a government subdivision or agency, business trust, estate, trust or any  
30 other legal entity.

31 (18) "Practitioner" means physician, dentist, veterinarian, scientific investigator, certified nurse  
32 practitioner, physician assistant or other person licensed, registered or otherwise permitted by law  
33 to dispense, conduct research with respect to or to administer a controlled substance in the course  
34 of professional practice or research in this state but does not include a pharmacist or a pharmacy.

35 (19) "Prescription" means a written, oral or electronically transmitted direction, given by a  
36 practitioner for the preparation and use of a drug. When the context requires, "prescription" also  
37 means the drug prepared under such written, oral or electronically transmitted direction. Any label  
38 affixed to a drug prepared under written, oral or electronically transmitted direction shall promi-  
39 nently display a warning that the removal thereof is prohibited by law.

40 (20) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a  
41 controlled substance.

42 (21) "Research" means an activity conducted by the person registered with the federal Drug  
43 Enforcement Administration pursuant to a protocol approved by the United States Food and Drug  
44 Administration.

45 (22) "Ultimate user" means a person who lawfully possesses a controlled substance for the use

1 of the person or for the use of a member of the household of the person or for administering to an  
2 animal owned by the person or by a member of the household of the person.

3 **(23) “Usable quantity” means:**

4 **(a) An amount of a controlled substance that is sufficient to physically weigh independent**  
5 **of its packaging and that does not fall below the uncertainty of the measuring scale; or**

6 **(b) An amount of a controlled substance that has not been deemed unweighable, as de-**  
7 **termined by a Department of State Police forensic laboratory, due to the circumstances of**  
8 **the controlled substance.**

9 [(23)] **(24)** “Within 1,000 feet” means a straight line measurement in a radius extending for 1,000  
10 feet or less in every direction from a specified location or from any point on the boundary line of  
11 a specified unit of property.

12 **SECTION 17.** ORS 423.478 is amended to read:

13 423.478. (1) The Department of Corrections shall:

14 (a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;

15 (b) Provide central information and data services sufficient to:

16 (A) Allow tracking of offenders; and

17 (B) Permit analysis of correlations between sanctions, supervision, services and programs, and  
18 future criminal conduct; and

19 (c) Provide interstate compact administration and jail inspections.

20 (2) Subject to ORS 423.483, the county, in partnership with the department, shall assume re-  
21 sponsibility for community-based supervision, sanctions and services for offenders convicted of felo-  
22 nies **or designated drug-related misdemeanors** who are:

23 (a) On parole;

24 (b) On probation;

25 (c) On post-prison supervision;

26 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

27 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-  
28 Prison Supervision to 12 months or less incarceration for violation of a condition of parole, pro-  
29 bation or post-prison supervision; *[and]* **or**

30 (f) On conditional release under ORS 420A.206.

31 (3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration,  
32 when an offender is committed to the custody of the supervisory authority of a county under ORS  
33 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other  
34 than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority  
35 releases a person from custody under this subsection and the person is required to report as a sex  
36 offender under ORS 163A.010, the supervisory authority, as a condition of release, shall order the  
37 person to report to the Department of State Police, a city police department or a county sheriff's  
38 office or to the supervising agency, if any:

39 (a) When the person is released;

40 (b) Within 10 days of a change of residence;

41 (c) Once each year within 10 days of the person's birth date;

42 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
43 institution of higher education; and

44 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher  
45 education.

1 (4) As used in this section[,]:

2 (a) "Attends," "institution of higher education," "works" and "carries on a vocation" have the  
3 meanings given those terms in ORS 163A.005.

4 (b) "Designated drug-related misdemeanor" means:

5 (A) Unlawful possession of a Schedule I controlled substance under ORS 475.752 (3)(a);

6 (B) Unlawful possession of a Schedule II controlled substance under ORS 475.752 (3)(b);

7 (C) Unlawful possession of methadone under ORS 475.824 (2)(a);

8 (D) Unlawful possession of oxycodone under ORS 475.834 (2)(a);

9 (E) Unlawful possession of heroin under ORS 475.854 (2)(a);

10 (F) Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 (2)(a);

11 (G) Unlawful possession of cocaine under ORS 475.884 (2)(a); or

12 (H) Unlawful possession of methamphetamine under ORS 475.894 (2)(a).

13 **SECTION 18.** ORS 423.525, as amended by section 67, chapter 117, Oregon Laws 2016, is  
14 amended to read:

15 423.525. (1) A county, group of counties or intergovernmental corrections entity shall apply to  
16 the Director of the Department of Corrections in a manner and form prescribed by the director for  
17 funding made available under ORS 423.500 to 423.560. The application shall include a community  
18 corrections plan. The Department of Corrections shall provide consultation and technical assistance  
19 to counties to aid in the development and implementation of community corrections plans.

20 (2)(a) From July 1, 1995, until June 30, 1999, a county, group of counties or intergovernmental  
21 corrections entity may make application requesting funding for the construction, acquisition, ex-  
22 pansion or remodeling of correctional facilities to serve the county, group of counties or intergov-  
23 ernmental corrections entity. The department shall review the application for funding of  
24 correctional facilities in accordance with criteria that consider design, cost, capacity, need, operat-  
25 ing efficiency and viability based on the county's, group of counties' or intergovernmental cor-  
26 rections entity's ability to provide for ongoing operations.

27 (b)(A) If the application is approved, the department shall present the application with a request  
28 to finance the facility with financing agreements to the State Treasurer and the Director of the  
29 Oregon Department of Administrative Services. Except as otherwise provided in subparagraph (B)  
30 of this paragraph, upon approval of the request by the State Treasurer and the Director of the  
31 Oregon Department of Administrative Services, the facility may be financed with financing agree-  
32 ments, and certificates of participation issued pursuant thereto, as provided in ORS 283.085 to  
33 283.092. All decisions approving or denying applications and requests for financing under this sec-  
34 tion are final. No such decision is subject to judicial review of any kind.

35 (B) If requests to finance county correctional facility projects are submitted after February 22,  
36 1996, and the requests have not been approved by the department on the date a session of the  
37 Legislative Assembly convenes, the requests are also subject to the approval of the Legislative As-  
38 sembly.

39 (c) After approval but prior to the solicitation of bids or proposals for the construction of a  
40 project, the county, group of counties or intergovernmental corrections entity and the department  
41 shall enter into a written agreement that determines the procedures, and the parties responsible, for  
42 the awarding of contracts and the administration of the construction project for the approved  
43 correctional facility. If the parties are unable to agree on the terms of the written agreement, the  
44 Governor shall decide the terms of the agreement. The Governor's decision is final.

45 (d) After approval of a construction project, the administration of the project shall be conducted

1 as provided in the agreement required by paragraph (c) of this subsection. The agreement must re-  
2 quire at a minimum that the county, group of counties or intergovernmental corrections entity shall  
3 submit to the department any change order or alteration of the design of the project that, singly or  
4 in the aggregate, reduces the capacity of the correctional facility or materially changes the services  
5 or functions of the project. The change order or alteration is not effective until approved by the  
6 department. In reviewing the change order or alteration, the department shall consider whether the  
7 implementation of the change order or alteration will have any material adverse impact on the  
8 parties to any financing agreements or the holders of any certificates of participation issued to fund  
9 county correctional facilities under this section. In making its decision, the department may rely on  
10 the opinions of the Department of Justice, bond counsel or professional financial advisers.

11 (3) Notwithstanding ORS 283.085, for purposes of this section, “financing agreement” means a  
12 lease purchase agreement, an installment sale agreement, a loan agreement or any other agreement  
13 to finance a correctional facility described in this section, or to refinance a previously executed fi-  
14 nancing agreement for the financing of a correctional facility. The state is not required to own or  
15 operate a correctional facility in order to finance it under ORS 283.085 to 283.092 and this section.  
16 The state, an intergovernmental corrections entity, county or group of counties may enter into any  
17 agreements, including, but not limited to, leases and subleases, that are reasonably necessary or  
18 generally accepted by the financial community for purposes of acquiring or securing financing as  
19 authorized by this section. In financing county correctional facilities under this section, “property  
20 rights” as used in ORS 283.085 includes leasehold mortgages of the state’s rights under leases of  
21 correctional facilities from counties.

22 (4) Notwithstanding any other provision of state law, county charter or ordinance, a county may  
23 convey or lease to the State of Oregon, acting by and through the Department of Corrections, title  
24 to interests in, or a lease of, any real property, facilities or personal property owned by the county  
25 for the purpose of financing the construction, acquisition, expansion or remodeling of a correctional  
26 facility. Upon the payment of all principal and interest on, or upon any other satisfaction of, the  
27 financing agreement used to finance the construction, acquisition, expansion or remodeling of a  
28 correctional facility, the state shall reconvey its interest in, or terminate and surrender its leasehold  
29 of, the property or facilities, including the financed construction, acquisition, expansion or remod-  
30 eling, to the county. In addition to any authority granted by ORS 283.089, for the purposes of ob-  
31 taining financing, the state may enter into agreements under which the state may grant to trustees  
32 or lenders leases, subleases and other security interests in county property conveyed or leased to  
33 the state under this subsection and in the property or facilities financed by financing agreements.

34 (5) In connection with the financing of correctional facilities, the Director of the Oregon De-  
35 partment of Administrative Services may bill the Department of Corrections, and the Department  
36 of Corrections shall pay the amounts billed, in the same manner as provided in ORS 283.089. As  
37 required by ORS 283.091, the Department of Corrections and the Oregon Department of Adminis-  
38 trative Services shall include in the Governor’s budget all amounts that will be due in each fiscal  
39 period under financing agreements for correctional facilities. Amounts payable by the state under  
40 a financing agreement for the construction, acquisition, expansion or remodeling of a correctional  
41 facility are limited to available funds as defined in ORS 283.085, and no lender, trustee, certificate  
42 holder or county has any claim or recourse against any funds of the state other than available funds.

43 (6) The director shall adopt rules that may be necessary for the administration, evaluation and  
44 implementation of ORS 423.500 to 423.560. The standards shall be sufficiently flexible to foster the  
45 development of new and improved supervision or rehabilitative practices and maximize local control.



1 (7) When a county assumes responsibility under ORS 423.500 to 423.560 for correctional services  
2 previously provided by the department, the county and the department shall enter into an inter-  
3 governmental agreement that includes a local community corrections plan consisting of program  
4 descriptions, budget allocation, performance objectives and methods of evaluating each correctional  
5 service to be provided by the county. The performance objectives must include in dominant part  
6 reducing future criminal conduct. The methods of evaluating services must include, to the extent  
7 of available information systems resources, the collection and analysis of data sufficient to deter-  
8 mine the apparent effect of the services on future criminal conduct.

9 (8) All community corrections plans shall comply with rules adopted pursuant to ORS 423.500  
10 to 423.560, and shall include but need not be limited to an outline of the basic structure and the  
11 supervision, services and local sanctions to be applied to offenders convicted of felonies **and des-**  
12 **ignated drug-related misdemeanors** who are:

13 (a) On parole;

14 (b) On probation;

15 (c) On post-prison supervision;

16 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

17 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-  
18 Prison Supervision to 12 months or less incarceration for a violation of a condition of parole, pro-  
19 bation or post-prison supervision; and

20 (f) On conditional release under ORS 420A.206.

21 (9) All community corrections plans shall designate a community corrections manager of the  
22 county or counties and shall provide that the administration of community corrections under ORS  
23 423.500 to 423.560 shall be under such manager.

24 (10) No amendment to or modification of a county-approved community corrections plan shall  
25 be placed in effect without prior notice to the director for purposes of statewide data collection and  
26 reporting.

27 (11) The obligation of the state to provide funding and the scheduling for providing funding of  
28 a project approved under this section is dependent upon the ability of the state to access public  
29 security markets to sell financing agreements.

30 (12) No later than January 1 of each odd-numbered year, the Department of Corrections shall:

31 (a) Evaluate the community corrections policy established in ORS 423.475, 423.478, 423.483 and  
32 423.500 to 423.560; and

33 (b) Assess the effectiveness of local revocation options.

34 (13) **As used in this section, "designated drug-related misdemeanor" has the meaning**  
35 **given that term in ORS 423.478.**

36 **SECTION 19.** ORS 137.633 is amended to read:

37 137.633. (1) A person convicted of a felony **or a designated drug-related misdemeanor** and  
38 sentenced to probation or to the legal and physical custody of the supervisory authority under ORS  
39 137.124 (2) is eligible for a reduction in the period of probation or local control post-prison super-  
40 vision for complying with terms of probation or post-prison supervision, including the payment of  
41 restitution and participation in recidivism reduction programs.

42 (2) The maximum reduction under this section may not exceed 50 percent of the period of pro-  
43 bation or local control post-prison supervision imposed.

44 (3) A reduction under this section may not be used to shorten the period of probation or local  
45 control post-prison supervision to less than six months.

1 (4)(a) The Department of Corrections shall adopt rules to carry out the provisions of this sec-  
2 tion.

3 (b) The supervisory authority shall comply with the rules adopted under this section.

4 (5) As used in this section[,]:

5 (a) **“Designated drug-related misdemeanor” has the meaning given that term in ORS**  
6 **423.478.**

7 (b) **“Local control post-prison supervision” means post-prison supervision that is supervised by**  
8 **a local supervisory authority pursuant to ORS 144.101.**

9 **SECTION 20.** ORS 51.050 is amended to read:

10 51.050. (1) Except as otherwise provided in this section, in addition to the criminal jurisdiction  
11 of justice courts already conferred upon and exercised by them, justice courts have jurisdiction of  
12 all offenses committed or triable in their respective counties. The jurisdiction conveyed by this  
13 section is concurrent with any jurisdiction that may be exercised by a circuit court or municipal  
14 court.

15 (2) In any justice court that has not become a court of record under ORS 51.025, a defendant  
16 charged with a misdemeanor shall be notified immediately after entering a plea of not guilty of the  
17 right of the defendant to have the matter transferred to the circuit court for the county where the  
18 justice court is located. The election shall be made within 10 days after the plea of not guilty is  
19 entered, and the justice shall immediately transfer the case to the appropriate court.

20 (3) A justice court does not have jurisdiction over the trial of any felony **or a designated**  
21 **drug-related misdemeanor as defined in ORS 423.478.** Except as provided in ORS 51.037, a justice  
22 court does not have jurisdiction over offenses created by the charter or ordinance of any city.

23 **SECTION 21.** ORS 221.339 is amended to read:

24 221.339. (1) A municipal court has concurrent jurisdiction with circuit courts and justice courts  
25 over all violations committed or triable in the city where the court is located.

26 (2) Except as provided in subsections (3) and (4) of this section, municipal courts have concur-  
27 rent jurisdiction with circuit courts and justice courts over misdemeanors committed or triable in  
28 the city. Municipal courts may exercise the jurisdiction conveyed by this section without a charter  
29 provision or ordinance authorizing that exercise.

30 (3) Municipal courts have no jurisdiction over felonies **or designated drug-related**  
31 **misdemeanors as defined in ORS 423.478.**

32 (4) A city may limit the exercise of jurisdiction over misdemeanors by a municipal court under  
33 this section by the adoption of a charter provision or ordinance, except that municipal courts must  
34 retain concurrent jurisdiction with circuit courts over:

35 (a) Misdemeanors created by the city’s own charter or by ordinances adopted by the city, as  
36 provided in ORS 3.132; and

37 (b) Traffic crimes as defined by ORS 801.545.

38 (5) Subject to the powers and duties of the Attorney General under ORS 180.060, the city at-  
39 torney has authority to prosecute a violation of any offense created by statute that is subject to the  
40 jurisdiction of a municipal court, including any appeal, if the offense is committed or triable in the  
41 city. The prosecution shall be in the name of the state. The city attorney shall have all powers of  
42 a district attorney in prosecutions under this subsection.

43 **SECTION 22.** ORS 161.615 is amended to read:

44 161.615. Sentences for misdemeanors shall be for a definite term. The court shall fix the term  
45 of imprisonment within the following maximum limitations:

- 1 (1) For a Class A misdemeanor, [1 year] **364 days**.
- 2 (2) For a Class B misdemeanor, 6 months.
- 3 (3) For a Class C misdemeanor, 30 days.
- 4 (4) For an unclassified misdemeanor, as provided in the statute defining the crime.

5 **SECTION 23.** ORS 419C.501 is amended to read:

6 419C.501. (1) The court shall fix the duration of any disposition made pursuant to this chapter  
7 and the duration may be for an indefinite period. Any placement in the legal custody of the De-  
8 partment of Human Services or the Oregon Youth Authority under ORS 419C.478 or placement un-  
9 der the jurisdiction of the Psychiatric Security Review Board under ORS 419C.529 shall be for an  
10 indefinite period. However, the period of institutionalization or commitment may not exceed:

- 11 (a) The period of time specified in the statute defining the crime for an act that would constitute  
12 an unclassified misdemeanor if committed by an adult;
- 13 (b) Thirty days for an act that would constitute a Class C misdemeanor if committed by an adult;
- 14 (c) Six months for an act that would constitute a Class B misdemeanor if committed by an adult;
- 15 (d) [One year] **Three hundred sixty-four days** for an act that would constitute a Class A  
16 misdemeanor if committed by an adult;
- 17 (e) Five years for an act that would constitute a Class C felony if committed by an adult;
- 18 (f) Ten years for an act that would constitute a Class B felony if committed by an adult;
- 19 (g) Twenty years for an act that would constitute a Class A felony if committed by an adult; and
- 20 (h) Life for a young person who was found to have committed an act that, if committed by an  
21 adult would constitute murder or any aggravated form of murder under ORS 163.095 or 163.115.

22 (2) Except as provided in subsection (1)(h) of this section, the period of any disposition may not  
23 extend beyond the date on which the young person or youth offender becomes 25 years of age.

24 **SECTION 24. The Oregon Criminal Justice Commission shall study the effect that the**  
25 **reduction of certain unlawful possession of a controlled substance offenses from a felony to**  
26 **a misdemeanor has had on the criminal justice system, rates of recidivism and the compo-**  
27 **sition of the population of persons convicted of felony offenses. The commission shall submit**  
28 **a report detailing the results of the study to the interim committees of the Legislative As-**  
29 **sembly related to the judiciary in the manner provided by ORS 192.245 no later than Sep-**  
30 **tember 15, 2018.**

31 **SECTION 25.** ORS 161.570 is amended to read:

32 161.570. (1) As used in this section, “nonperson felony” has the meaning given that term in the  
33 rules of the Oregon Criminal Justice Commission.

34 (2) A district attorney may elect to treat a Class C nonperson felony or a violation of ORS  
35 475.752 [(3)(a)] **(7)**, 475.854 **(2)(b)** or 475.874 **(2)(b)** as a Class A misdemeanor. The election must be  
36 made by the district attorney orally or in writing at the time of the first appearance of the defend-  
37 ant. If a district attorney elects to treat a Class C felony or a violation of ORS 475.752 [(3)(a)] **(7)**,  
38 475.854 **(2)(b)** or 475.874 **(2)(b)** as a Class A misdemeanor under this subsection, the court shall  
39 amend the accusatory instrument to reflect the charged offense as a Class A misdemeanor.

40 (3) If, at some time after the first appearance of a defendant charged with a Class C nonperson  
41 felony or a violation of ORS 475.752 [(3)(a)] **(7)**, 475.854 **(2)(b)** or 475.874 **(2)(b)**, the district attorney  
42 and the defendant agree to treat the charged offense as a Class A misdemeanor, the court may allow  
43 the offense to be treated as a Class A misdemeanor by stipulation of the parties.

44 (4) If a Class C felony or a violation of ORS 475.752 [(3)(a)] **(7)**, 475.854 **(2)(b)** or 475.874 **(2)(b)**  
45 is treated as a Class A misdemeanor under this section, the court shall clearly denominate the of-

1 fense as a Class A misdemeanor in any judgment entered in the matter.

2 (5) If no election or stipulation is made under this section, the case proceeds as a felony.

3 (6) Before a district attorney may make an election under subsection (2) of this section, the  
4 district attorney shall adopt written guidelines for determining when and under what circumstances  
5 the election may be made. The district attorney shall apply the guidelines uniformly.

6 (7) Notwithstanding ORS 161.635, the fine that a court may impose upon conviction of a  
7 misdemeanor under this section may not:

8 (a) Be less than the minimum fine established by ORS 137.286 for a felony; or

9 (b) Exceed the amount provided in ORS 161.625 for the class of felony receiving Class A  
10 misdemeanor treatment.

11 **SECTION 26.** Notwithstanding any other provision of law, the General Fund appropriation  
12 made to the Oregon Criminal Justice Commission by section 1, chapter \_\_\_\_\_, Oregon Laws  
13 2017 (Enrolled House Bill 5005), for the biennium beginning July 1, 2017, is increased by  
14 \$347,351 for the purpose of implementing the provisions of this 2017 Act.

15 **SECTION 27.** Notwithstanding any other provision of law, the General Fund appropriation  
16 made to the Department of State Police by section 1 (4), chapter \_\_\_\_\_, Oregon Laws 2017  
17 (Enrolled House Bill 5031), for the biennium beginning July 1, 2017, for administrative ser-  
18 vices, agency support, criminal justice information services and office of the State Fire  
19 Marshal, is increased by \$780,418 for the purpose of implementing the provisions of this 2017  
20 Act.

21 **SECTION 28.** Notwithstanding any other law limiting expenditures, the limitation on  
22 expenditures established by section 2 (4), chapter \_\_\_\_\_, Oregon Laws 2017 (Enrolled House  
23 Bill 5031), for the biennium beginning July 1, 2017, as the maximum limit for payment of ex-  
24 penses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding  
25 lottery funds and federal funds, collected or received by the Department of State Police for  
26 administrative services, agency support, criminal justice information services and office of  
27 the State Fire Marshal, is increased by \$750,000 for the purpose of implementing the pro-  
28 visions of this 2017 Act.

29 **SECTION 29.** Notwithstanding any other law limiting expenditures, the limitation on  
30 expenditures established by section 2 (1), chapter \_\_\_\_\_, Oregon Laws 2017 (Enrolled House  
31 Bill 5034), for the biennium beginning July 1, 2017, as the maximum limit for payment of ex-  
32 penses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding  
33 lottery funds and federal funds, collected or received by the Department of Public Safety  
34 Standards and Training, for operations, is increased by \$431,330 for the purpose of imple-  
35 menting the provisions of this 2017 Act.

36 **SECTION 30.** (1) The amendments to ORS 475.005, 475.752, 475.824, 475.834, 475.854,  
37 475.874, 475.884 and 475.894 by sections 9 to 16 of this 2017 Act apply to unlawful possession  
38 of a controlled substance offenses committed on or after the effective date of this 2017 Act.

39 (2) The amendments to ORS 161.615 by section 22 of this 2017 Act apply to sentences  
40 imposed on or after the effective date of this 2017 Act.

41 (3) The amendments to ORS 419C.501 by section 23 of this 2017 Act apply to findings that  
42 a youth offender is within the jurisdiction of the court under ORS 419C.005 that are made  
43 on or after the effective date of this 2017 Act.

44 **SECTION 31.** This 2017 Act being necessary for the immediate preservation of the public  
45 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect

1 **on its passage.**

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