

HB 3281-1  
(LC 1495)  
3/25/19 (LHF/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Council of State Governments Justice Center)

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3281**

1 Delete lines 4 through 7 of the printed bill and insert:

2 **“SECTION 1. (1) The Behavioral Health Justice Reinvestment Pro-**  
3 **gram is established in the Oregon Criminal Justice Commission in re-**  
4 **cognition of the shortage of comprehensive community supports and**  
5 **services for individuals with mental health or substance use disorders,**  
6 **leading to their involvement with the criminal justice system,**  
7 **hospitalizations and institutional placements. The purpose of the pro-**  
8 **gram is to address this need by awarding grants to counties and Indian**  
9 **tribes to establish evidence-based programs to provide the needed**  
10 **supports and services.**

11 **“(2) In consultation with the Behavioral Health Justice Reinvest-**  
12 **ment Grant Review Committee established in section 3 of this 2019 Act,**  
13 **the commission shall adopt rules for administering the program in-**  
14 **cluding rules:**

15 **“(a) Identifying the target population to be served by the programs**  
16 **funded with the grants;**

17 **“(b) Prescribing a methodology for the committee to review and**  
18 **approve grant applications, subject to the commission’s approval;**

19 **“(c) Establishing a process for evaluating the efficacy of the pro-**  
20 **grams and the comprehensive community supports and services pro-**  
21 **vided by the programs receiving the grants;**

1       “(d) Establishing criteria for allowing a grantee to use a portion of  
2 a grant to:

3       “(A) Expand the workforce of providers of mental health or sub-  
4 stance abuse services in the community; or

5       “(B) Provide community housing for individuals with mental health  
6 or substance use disorders; and

7       “(e) For imposing progressive sanctions on grantees that fail to  
8 meet program performance measures following the provision of tech-  
9 nical assistance by the committee and termination of a grant:

10       “(A) For consistent failures to meet program performance meas-  
11 ures; or

12       “(B) Upon a finding of misuse of funds or fraud.

13       “(3) The funds in the Behavioral Health Justice Reinvestment Ac-  
14 count established in section 2 of this 2019 Act must be distributed to  
15 counties that are awarded grants proportional to the workload and  
16 population of the county in accordance with the formula adopted un-  
17 der ORS 423.530. The funds may not be used:

18       “(a) For a purpose other than the programs providing supports and  
19 services for which the grants were awarded; or

20       “(b) To supplant moneys currently used by the counties for provid-  
21 ing supports or services or mental health or substance use disorder  
22 treatment.

23       “(4) If unallocated funds remain at the conclusion of the grant ac-  
24 ceptance period, the commission may establish a supplemental grant  
25 period and distribute the unallocated funds to the counties that re-  
26 ceived grants.

27       “(5) Up to 20 percent of the funds in the account may be used for  
28 operating a statewide program to support the design and implementa-  
29 tion of community-based services including:

30       “(a) Technical assistance to prospective grantees in developing

1 **proposals, particularly for developing proposals for supportive housing;**

2 **“(b) Technical assistance to grantees for troubleshooting data col-**  
3 **lection requirements and sharing information with third parties as**  
4 **necessary for carrying out the programs;**

5 **“(c) Statewide training, provided in-person and remotely, for**  
6 **grantees and nongrantees, focused on improving outcomes for the**  
7 **target population;**

8 **“(d) Making resources available to district attorneys and defense**  
9 **attorneys for consultation on cases involving defendants with complex**  
10 **behavioral health issues;**

11 **“(e) Developing or strengthening a centralized system to make**  
12 **available to communities practitioners in professional specialties for**  
13 **which there is a shortage, including practitioners of addiction medi-**  
14 **cine and psychiatry; and**

15 **“(f) A one-time investment in information technology to support**  
16 **the data system needs for the evaluation, accountability and inno-**  
17 **vation components of the program.**

18 **“(6) Up to five percent of the funds in the account must be used to**  
19 **support quality improvement functions.**

20 **“(7) An application for a grant must be submitted by the governing**  
21 **body of the county or the Indian tribe with the consent of the presid-**  
22 **ing judge of the judicial district where the county or Indian tribe is**  
23 **located and:**

24 **“(a) Must include:**

25 **“(A) Letters of support and commitments from courts, law**  
26 **enforcement, the sheriff’s department, community corrections, be-**  
27 **havioral health providers, coordinated care organizations and local**  
28 **hospitals.**

29 **“(B) For applications from counties, a report of the input received**  
30 **from the local tribes and, to the extent feasible, an explanation of how**

1 the input was incorporated into the design of the program, supports  
2 and services.

3 “(C) For applications from tribes, a report of the input from the  
4 local county or regional consortium and, to the extent feasible, an  
5 explanation of how the input was incorporated into the design of the  
6 program, supports and services.

7 “(D) An agreement to screen all participants receiving supports and  
8 services funded by the grants for potential eligibility for medical as-  
9 sistance and to assist eligible participants to apply for medical assist-  
10 ance.

11 “(b) May include a request to have more flexibility in using existing  
12 state funding to provide supports and services that address the need  
13 described in subsection (1) of this section.

14 “(8) Annually, grantees shall report to the committee and to the  
15 Oregon Health Authority the medical assistance enrollment data for  
16 participants receiving supports and services provided with funds from  
17 the grants. The authority shall review the data reported, at least an-  
18 nually, to explore ways to maximize federal financial participation in  
19 the costs of the supports and services.

20 “(9) The commission shall regularly evaluate the programs and  
21 supports and services funded by grants awarded under this section and  
22 report the findings of the evaluation to the committees of the Legis-  
23 lative Assembly related to the judiciary and related to health, at least  
24 annually.

25 **“SECTION 2. The Behavioral Health Justice Reinvestment Account**  
26 **is established in the State Treasury, separate and distinct from the**  
27 **General Fund. All moneys in the account are continuously appropri-**  
28 **ated to the Oregon Criminal Justice Commission for the purpose of**  
29 **carrying out section 1 of this 2019 Act.**

30 **“SECTION 3. (1) The Behavioral Health Justice Reinvestment Grant**

1 **Review Committee is established in the Oregon Criminal Justice**  
2 **Commission consisting of 15 members as follows:**

3 **“(a) The Director of the Oregon Health Authority, or the director’s**  
4 **designee.**

5 **“(b) The Director of the Department of Corrections, or the**  
6 **director’s designee.**

7 **“(c) The Chief Justice of the Supreme Court, or the Chief Justice’s**  
8 **designee.**

9 **“(d) The superintendent of the Oregon State Hospital.**

10 **“(e) Seven members appointed by the Governor including:**

11 **“(A) A district attorney.**

12 **“(B) An attorney specializing in defense of individuals with mental**  
13 **health or substance use disorders.**

14 **“(C) A chief of police.**

15 **“(D) A county commissioner.**

16 **“(E) A director of a hospital that provides acute mental health**  
17 **treatment.**

18 **“(F) A representative of a community-based mental health treat-**  
19 **ment facility or a practitioner in a community-based mental health**  
20 **treatment facility.**

21 **“(G) A representative of a community-based substance use disorder**  
22 **treatment facility or a practitioner in a community-based substance**  
23 **use disorder treatment facility.**

24 **“(f) Two nonvoting members appointed by the President of the**  
25 **Senate from among members of the Senate.**

26 **“(g) Two nonvoting members appointed by the Speaker of the House**  
27 **of Representatives from among members of the House of Represen-**  
28 **tatives.**

29 **“(2) A majority of the voting members of the committee constitutes**  
30 **a quorum for the transaction of business.**

1       **“(3) The committee shall elect one of its members to serve as**  
2 **chairperson.**

3       **“(4) If there is a vacancy for any cause, the appointing authority**  
4 **shall make an appointment to become effective immediately.**

5       **“(5) The committee shall meet at times and places specified by the**  
6 **call of the chairperson or a majority of the voting members of the**  
7 **committee.**

8       **“(6) The Oregon Criminal Justice Commission shall provide staff**  
9 **support to the committee.**

10       **“(7) Legislative members of the committee shall be entitled to pay-**  
11 **ment of compensation and expenses under ORS 171.072, payable from**  
12 **funds appropriated to the Legislative Assembly.**

13       **“(8) Members of the committee who are not members of the Legis-**  
14 **lative Assembly are not entitled to compensation or reimbursement**  
15 **for expenses and serve as volunteers on the task force.**

16       **“(9) All agencies of state government, as defined in ORS 174.111, are**  
17 **directed to assist the committee in the performance of the duties of**  
18 **the committee and, to the extent permitted by laws relating to**  
19 **confidentiality, to furnish information and advice that the members**  
20 **of the committee consider necessary to perform their duties.**

21       **“SECTION 4. (1) The Behavioral Health Justice Reinvestment Grant**  
22 **Review Committee established in section 3 of this 2019 Act shall ad-**  
23 **minister the Behavioral Health Justice Reinvestment Program estab-**  
24 **lished in section 1 of this 2019 Act, in consultation with the Oregon**  
25 **Criminal Justice Commission and the Oregon Health Authority.**

26       **“(2) The committee shall be responsible for approving grant appli-**  
27 **cations, subject to the approval of the commission, and for distribut-**  
28 **ing the grant moneys in accordance with rules adopted by the**  
29 **commission under section 1 of this 2019 Act. At least one grant must**  
30 **be awarded to an Indian tribe.**

1       **“(3) For grantees that requested more flexibility in the use of ex-**  
2 **isting state funding under section 1 (7)(b) of this 2019 Act, the com-**  
3 **mittee shall act on behalf of the grantee to request from the**  
4 **appropriate agency the additional flexibility if the committee deter-**  
5 **mines that the use of the funds enabled by the additional flexibility is**  
6 **likely:**

7       **“(a) To be an effective and appropriate use of state funds;**

8       **“(b) To significantly reduce the administrative burdens on the**  
9 **grantee; and**

10       **“(c) Not to undermine the financial integrity of the program for**  
11 **which the funds are provided.**

12       **“(4) The committee shall develop additional financial reporting re-**  
13 **quirements for a grantee’s use of funds as described in subsection (3)**  
14 **of this section.**

15       **“(5) Based on evaluations conducted by the quality improvement**  
16 **subcommittee established under section 5 of this 2019 Act, the com-**  
17 **mittee shall provide guidance to assist local and regional grantees to**  
18 **improve the outcomes of participants in their programs and receiving**  
19 **the comprehensive community supports and services funded by the**  
20 **grants. The committee shall develop a continuum of strategies to**  
21 **support grantees in meeting the grantees’ goals for outcomes.**

22       **“(6) The committee shall establish partnerships with appropriate**  
23 **agencies and other entities to ensure that the information technology**  
24 **infrastructure is sufficient to efficiently collect and analyze program**  
25 **data and to transfer data as needed. To the greatest extent practica-**  
26 **ble, the committee shall use existing information technology systems**  
27 **and staff expertise.**

28       **“SECTION 5. (1) The Behavioral Health Justice Reinvestment Grant**  
29 **Review Committee shall establish a quality improvement subcommit-**  
30 **tee to:**

1       “(a) Establish performance measures for programs receiving grants  
2 under the Behavioral Health Justice Reinvestment Program;

3       “(b) Establish procedures for ongoing reporting and feedback to the  
4 grantee program sites;

5       “(c) Define the parameters for the reports to the committee, the  
6 Legislative Assembly and the Governor;

7       “(d) Establish a statewide system for tracking simple, clear and  
8 meaningful outcome data that is timely and easily accessed to inform  
9 best practices and improve outcomes for individual participants; and

10       “(e) Establish an institutional review board to ensure that data  
11 collected is handled appropriately and is maintained in compliance  
12 with state and federal privacy laws.

13       “(2) The subcommittee shall evaluate program outcomes at the lo-  
14 cal, regional and statewide basis and report its findings to the:

15       “(a) Committee quarterly; and

16       “(b) Governor and to the interim committees of the Legislative  
17 Assembly related to health and the judiciary annually on or before  
18 September 15.

19       “(3) The data described in subsection (1)(e) of this section must, to  
20 the greatest extent practicable, allow researchers to access data sets  
21 for conducting research into effective strategies for reducing criminal  
22 justice involvement, hospitalizations and other institutional place-  
23 ments for individuals with mental health or substance use disorders.

24       “SECTION 6. As used in sections 1 to 6 of this 2019 Act:

25       “(1) ‘Comprehensive community supports and services’ includes:

26       “(a) Community-based mental health or substance use disorder  
27 treatment programs;

28       “(b) Community-based services necessary to restore a defendant’s  
29 fitness to proceed, as described in ORS 161.370 (2)(a);

30       “(c) Evidence-based programs designed to reduce hospital and jail



1 utilization by target populations; and

2 “(d) Specialty courts aimed at diverting individuals with nonperson  
3 criminal charges experiencing mental illness or substance use disor-  
4 ders from the criminal justice system.

5 “(2) ‘County’ includes a single county or a regional consortium of  
6 counties.

7 **“SECTION 7. (1) At least once per biennium, the Oregon Criminal  
8 Justice Commission shall, in conjunction with the Oregon Health Au-  
9 thority, identify:**

10 “(a) The costs to state government that were avoided as a result  
11 of the Behavioral Health Justice Reinvestment Program established in  
12 section 1 of this 2019 Act; and

13 “(b) Any increased costs to local governments as a result of the  
14 program.

15 “(2) No later than January 1 of each odd-numbered year, the com-  
16 mission shall submit a report to the Behavioral Health Justice Rein-  
17 vestment Grant Review Committee established in section 3 of this 2019  
18 Act and to the Legislative Assembly in the manner provided by ORS  
19 192.245, that includes the costs described in subsection (1) of this sec-  
20 tion and describes the methodology employed by the commission in  
21 determining the costs.

22 **“SECTION 8. (1) The Behavioral Health Justice Reinvestment Grant  
23 Review Committee established in section 3 of this 2019 Act shall ad-  
24 minister a program in which Oregon counties, Indian tribes or re-  
25 gional consortia of counties or Indian tribes may apply to the  
26 committee for state funds to match the investments made by the  
27 counties, Indian tribes or consortia in comprehensive community  
28 supports and services for the target population of the Behavioral  
29 Health Justice Reinvestment Program, for the purpose of enhancing  
30 or sustaining the supports and services.**

1       **“(2) The committee shall establish priorities for the matching funds**  
2 **based on specified factors such as the size of the population of a**  
3 **county, the utilization of the Oregon State Hospital by the residents**  
4 **of the county or a preference given to Indian tribes.**

5       **“(3) The committee may provide enhanced matching funds to en-**  
6 **courage regional program projects.**

7       **“(4) The local investments matched by state funds may not be used**  
8 **to supplant existing sources of funding that could be used to provide**  
9 **supports and services to the target population, including but not lim-**  
10 **ited to:**

11       **“(a) Medical assistance funding;**

12       **“(b) Federal grants;**

13       **“(c) Local funding;**

14       **“(d) State grants or other state funding; or**

15       **“(e) Other third-party sources of funding to reimburse the cost of**  
16 **the supports and services.**

17       **“(5) The county, tribal or regional investment used to leverage a**  
18 **state match may include:**

19       **“(a) County government or tribal funds.**

20       **“(b) Financial commitments by entities other than counties or**  
21 **tribes that are specifically designated for providing Behavioral Health**  
22 **Justice Reinvestment Program supports and services.**

23       **“(c) The value of newly dedicated or donated real estate or other**  
24 **tangible property, including but not limited to:**

25       **“(A) Land;**

26       **“(B) Buildings;**

27       **“(C) Remodeling costs that address the needs identified by the Be-**  
28 **havioral Health Justice Reinvestment Program;**

29       **“(D) Donated program space;**

30       **“(E) Vehicles; or**

