

SB 755 A -A35, -A36 STAFF MEASURE SUMMARY

Joint Committee On Ways and Means

Prepared By: Tom MacDonald, Budget Analyst

Meeting Dates: 6/10, 6/11

WHAT THE MEASURE DOES:

Implements language of Ballot Measure 110 (BM110). Makes style and form changes. Corrects omission of hydrocodone from drug penalty updates. Clarifies use of presumptive field tests in Class E violation proceedings. Limits jurisdiction over E violation citations to circuit courts. Requires cited individuals to complete “screening” rather than “assessment” and defines “screening.” Creates electronic process for verification of completed screening to be sent to judicial department. Specifies dismissal as outcome of E violation citation if individual completes screening. Specifies \$100 as presumptive fine and \$45 as minimum fine for Class E violation citation. Requires officers to provide information on how to obtain screening when issuing E violation citations. Creates process for juveniles to handle their citations through juvenile system. Re-inserts substantial quantity of controlled substances to felony classification subject to ORS 475.900. Delineates substantial quantities of fentanyl. Creates process for prosecuting attorneys with consent of defendant to dispose of not yet adjudicated cases that would have been E violations after February 1, 2021. Prohibits use of ORS 153.992 and ORS 153.064 to prosecute or arrest individuals who fail to appear for E violation-related proceedings. Changes term "Addiction Recovery Center" or “ARC” to “Behavioral Health Resource Network” (BHRN) and requires one complete BHRN to be operational per county. Clarifies that a complete BHRN may consist of a single entity or multiple entities providing services in conjunction or separately, and that individual entities within a BHRN do not need to provide all service elements of a BHRN. Allows entities jointly to apply for funding. Expands services required to be provided by complete BHRNs to include substance use disorder treatment, housing, and harm reduction services, in addition to screenings, assessments, intervention plans, peer counseling, and mobile outreach services. Removes sunset on Oregon Health Authority (OHA) screening phone hotline and specifies that the phone hotline must provide the same screenings as BHRNs and send verification of screening to the judicial department. Clarifies that the BM110 fund is the payor of last resort. Expands ability to disburse funding to include grants and other funding. Changes quorum rules for Oversight and Accountability Council (OAC). Directs the Oversight and Accountability Council to prioritize funding to community-based organizations serving communities most impacted by the war on drugs. Clarifies that tribes and tribal-affiliated organizations can receive grant funding. Removes language that allowed funding for government entities only if no applicants were community-based organizations. Directs OHA to publish information on grant recipients and to report to legislature quarterly. Requires OAC members to abide by ethical rules under Oregon Revised Statutes Chapter 244 including reporting requirements, methods of handling conflicts, and filing annual statements of economic interest. Requires real-time audit and financial review to be conducted by the Secretary of State, in addition to traditional auditing requirements. Directs audits to examine specific data on implementation and enforcement, treatment services, functioning of the OAC and OHA, and individual outcomes of persons cited under the Act. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-A35 Includes additional provisions related to the establishment of the BHRNs and provides further direction over expenditures authorized by the Council. It prioritizes the expenditure of funds such that at least one BHRN is established and operational within each county by January 1, 2022. The Council is otherwise authorized to award grants totaling up to \$13 million in calendar year 2021 based on previously approved grant applications for

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addiction and recovery services. It also requires OHA to report to the Legislature additional details on grant awards and clarifies that youth can enter into formal accountability agreements

-A36 Makes a technical adjustment to remove potential ambiguity regarding the scope of state government ethics laws that apply to Council members.

BACKGROUND:

Ballot Measure 110 was passed by Oregon voters in 2020 with 58 percent of the vote in favor and 42 percent of the vote opposed. Also referred to as the Drug Addiction Treatment and Recovery Act (Act), Ballot Measure 110 decriminalized possession of small amounts of controlled substances. It classified those offenses as Class E violations that are subject to a \$100 fine. If a cited person completed an assessment, the fine would be waived. The Act also created the Treatment and Recovery Services Fund (Fund) which is financed in large part with marijuana revenues and is disbursed through grants to increase access to behavioral healthcare. The Act created an Oversight and Accountability Council (OAC) that acts as the rulemaking and grant disbursement body under the wing of the Oregon Health Authority. Efficacy is assessed by audit conducted by the Secretary of State.

Senate Bill 755 modifies the structure and clarifies the implementation of Ballot Measure 110. Specifically, it clarifies that E violation citations have a presumptive fine of \$100, that circuit courts will have jurisdiction of E violation citations, and that a person must complete a "screening" in order to have an E violation citation dismissed. Screenings are defined within the statute to involve contact with a certified addiction peer support specialist who will assess needs for treatment, acute care, and link the individual with services including treatment for substance abuse and coexisting health problems, housing, employment, training and child care. It codifies an electronic process for verifications of the screenings to be sent to the judicial department handling the E violation citation, and requires officers issuing E violation citations to provide the cited person with information on how to obtain a screening. A person can also address their ticket through any equal to or greater treatment contact than the screening. It routes juveniles ticketed through the juvenile system and clarifies issues surrounding E violation citation trials, and allows for a method by which prosecutors with consent of defendants may resolve not yet adjudicated cases that would have been E violations after February 1, 2021 through the E violation screening and fines route. It also clarifies that possession of a substantial quantity is still subject to felony designation under ORS 475.900 and codifies a substantial quantity of fentanyl and its analogues. Finally, it bars use of ORS 153.992 and ORS 153.064 to prosecute or arrest individuals who fail to appear to address their E violation citation.

Senate Bill 755 modifies the treatment provisions of Ballot Measure 110 by changing the requirements of one Addiction Recovery Center (ARC) per coordinated care organization service region to one complete Behavioral Health Resource Network (BHRN) per county. It defines a Behavioral Health Resource Network as an entity or collection of entities working together or individually to fulfill certain service and staffing requirements. The list of the service and staffing requirements that appears in the statute acts as the floor for treatment, with additional requirements able to be identified by the OAC over time. The service requirements that a BHRN must fulfill include: (A) a screening entity who can provide the screenings required to address E violation citations, (B) comprehensive behavioral health needs assessments, (C) individual intervention planning and case management, (D) ongoing peer counseling and support, (E) mobile or virtual outreach services, (F) harm reduction services, (G) low-barrier substance use disorder treatment, and (H) transitional and supportive housing. The staffing requirements that a BHRN must fulfill include at least one certified alcohol and drug counselor or other credentialed addiction treatment professional, case manager, and certified addiction peer support or wellness specialist.

Senate Bill 755 expands the ability of the OAC and OHA to fund through both grants and other funding mechanisms. Funding may flow to community-based or governmental entities, including tribes and tribal affiliated

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organizations. The OAC is directed to prioritize funds toward communities most impacted by the war on drugs. Information on grants and funding is required to be made public by the OHA, and must be reported to the legislature quarterly. Senate Bill 755 also amends quorum requirements for the OAC, makes the OHA member of the OAC nonvoting, and clarifies that members are subject to the ethical rules contained in ORS Chapter 244. Finally, it creates thorough real-time auditing requirements in addition to traditional auditing and review requirements imposed on the Secretary of State. The audits and reviews must examine a broad array of data and questions, including questions about the structural integrity of the programs created by Ballot Measure 110, outcomes related to access to treatment, and implementation data.