

**Max Williams Legislative Testimony**  
**Joint Committee on Addiction and Community Safety Response**  
**Coalition to Fix and Improve Ballot Measure 110**  
**December 4, 2023**

Co-Chairs Lieber and Kropf, members of the committee. My name is Max Williams. I appreciate the opportunity to offer testimony, and to be joined by my colleague Kevin Barton, on behalf of the Fix and Improve Measure 110 Coalition. As you are aware, the Coalition has filed an initiative petition to make changes to Ballot Measure 110, but our hope is that the legislature will address this issue comprehensively in the February session.

I am here today to recommend specific adjustments to Ballot Measure 110 that our contained in Initiative Petition 2024-47. The goal of this effort is not to take us back to 2019 – but to encourage a better bridge for those suffering from substance use disorder and to provide them a pathway to recovery. In the short time we have today I would like to make a few key points.

**1. Portions of Measure 110 have Resulted in Significant Negative Community Consequences.**

While Ballot Measure 110 did not create Oregon’s addiction crisis, our mental health crisis, or singlehandedly our boost in virtually all categories of crime, the evidence supports that Measure 110 exacerbated each of these circumstances in communities across Oregon. The decision to decriminalize lethal street drugs like methamphetamine, fentanyl, and heroin within 90-days of its passage – in a state that ranked 49<sup>th</sup> in access to treatment services - has been a recipe for disaster. Even three years later the proponents say that Measure 110 “needs more time.” But the fact is that Oregonians – who supported the Measure because it promised “treatment and recovery” have now seen the actual effects of this policy and are calling for change.

Overdose rates are rising at three-times national averages and even higher for teens and youth. The pro-drug legalization advocates will attempt to say we “aren’t as bad as some other states” – but last I checked this isn’t a competition for whose least-worst. Active drug markets are present in our major cities and communities and businesses are struggling to deal with the reality that decriminalization had created. The evidence speaks for itself if you are willing to look at it honestly.

The provisions in Measure 110 for writing “tickets” for possession of these deadly drugs has failed in both holding those in possession of these drugs accountable – and in motivating them find a pathway to treatment and recovery. Simultaneously, we have advertised that Oregon is “open for business” when it comes to these drugs – and invited both dealers – and users – to our state where one can access these drugs with essentially zero consequences. The most recent Oregon Judicial Department Report on Measure 110 confirmed that less than 1% of those who received citations under this new law went through the process to receive a treatment evaluation and referral. Less than 1%.

## **2. There are practical solutions that will achieve the spirit of Measure 110.**

Both IP-47 and the proposals put forward to you by League of Oregon Cities, the Oregon Sheriffs Association, the Chiefs of Police, and the Oregon District Attorneys Association - all offer a series of practical solutions that will be a step forward in addressing these challenges. One specific recommendation contained in all these proposals is to stop the failed “class E-violation” ticketing effort and reclassify possession of these drugs as misdemeanors. This seems to be where the heat is on this debate and the primary point at issue. But all of us who are recommending this action aren’t suggesting a return to 2019 – but recommend various approaches that will allow individuals access to diversion programs – both pre-arrest and post-arrest. These approaches are designed to provide those with substance use disorder an opportunity to seek treatment and recovery – through a combination of consequences and rewards.

The plans also support a complete expungement of the individuals record at the end of the process. No one is advocating for stacking drug users in jails or more lengthy criminal histories. The goal is to use a minimal amount of criminal justice resources to help motivate those in the midst of this addiction into treatment and recovery programs.

Early intercepts into treatment and recovery (offering diversion and expungement) at the misdemeanor level is an evidence-based approach helping those with addiction from incurring more severe criminal penalties. We don't send people to prison for drug possession in Oregon – and we haven't in the last four decades. But there are large percentages of people in prison (and I speak with some experience on this subject) who are in prison because of their addiction and the crimes they committed in pursuit of their addiction – either a felony property crime or a felony person crime. These are much more serious offenses, and they will pay life-long consequences because of it. So frankly, the more humane and progressive approach is to provide the justice system with the necessary tools for early-intervention that will have the highest likelihood of diverting someone away from long-term criminal consequences.

You have certainly heard people say that mandatory or compelled treatment doesn't work. This is simply not true. I'd cite for you today the submitted testimony of Stanford Professor Keith Humphries, a former Obama White House drug policy advisor and Chris Wig, the Executive Director of Emergence Addiction and Behavioral Therapies for your consideration. I hope you will take the time to read their compelling testimony. Suggesting court mandated treatment doesn't work is disingenuous and ignores the data – not to mention the actual experience of more than 30 years of Oregon drug court programs – and the lived experience of literally thousands of Oregonians with substance abuse challenges who have benefited from such programs and today find themselves in recovery.

There are treatment providers today – with empty treatment beds – despite the overwhelming need – because the pathway and motivation to seek treatment was broken when we decided to no longer use these systems.

Currently, local law enforcement lacks the necessary tools – and they are asking for these tools to be restored – and are joined by 74% of Oregonians across all political parties, geography, race, age and income levels who believe Oregon should recriminalize possession of these lethal and damaging drugs.

### **3. The Upside of Measure 110 is a Stable Source of Treatment Revenue.**

The primary upside of Measure 110 is its capture of cannabis tax revenue for investment in treatment and recovery services. We are grateful for hundreds of organizations that are building capacity and providing meaningful treatment, peer support and recovery services across the state. They need these resources – and a sense of stability – to make the necessary investments to meet these challenges. We recommend that you consider, as we did in IP-47, including a funding floor for prevention, treatment, and recovery services – recognizing that the cannabis revenue is unstable. In addition, I think all your experts will tell you that the Measure 110 money alone will be insufficient to meet this challenge. We encourage you to find additional sources of revenue, blended streams of federal, state, and local funding, to address this challenge.

### **4. Oregon's Drug Decriminalization Has Outsized Impacts on the Future of Oregon.**

When I was serving in this body more than 20-years ago, we made the decision because of the meth crisis, to put pseudoephedrine behind the counter and require a prescription to purchase it. That policy resulted in a huge reduction in the number of meth-houses, and dramatically reduced the number of children and individuals exposed to those manufacturing the drug. It disrupted supplies and was seen as a common-sense solution to a serious problem.

We likewise have numerous other laws – particularly as it relates to youth – that are designed to keep people safe. We spend (and have spent) millions trying to convince youth that smoking, drinking alcohol before 21, and riding a bike without a helmet are all bad ideas – and we’ve enacted laws to address these standards – that include varying levels of accountability.

Yet, in Oregon today we are sending incredibly mixed signals about what we value as a community. Your own prevention witness in the first hearing told you that the youth she works with are convinced that Oregon’s position on decriminalization will result in more addicted youth. And unlike a cigarette, their first experience with fentanyl may also be their last. Yet, Oregon spends substantially less on prevention efforts for these lethal drugs than we do for cigarettes – and when we decriminalized these drugs for adults, we did it for juveniles as well – creating significant challenges for those in Oregon’s Juvenile Justice system. What message do we want to send to Oregon’s youth?

Finally, we’ve sent a broader message about our values as a state. Communicating that we have decriminalized these lethal drugs like meth, heroin and fentanyl have caused serious damage to Oregon’s national and international reputation. One only need read the New York Times, the Washington Post, the Atlantic and other national publications. Some may think that this doesn’t matter. But there is little doubt that it is damaging Oregon’s access to capital, investment in our state, and tourism. It has combined with other challenges we are facing to increase capital flight from Oregon as well.

You, however, have a chance to do something important – both at the individual user level – and at the macro level – which is to send a signal that we are changing our mind about the decriminalization of these drugs – as well as ultimately delivering on the promise that Oregonians believed they were voting for with Ballot Measure 110.

It's worth noting that the State of Washington - and the City of Seattle – both quickly acted to recriminalize possession of these drugs when they were, because of a court case, shortly decriminalized. My question: What do we think we know – that the rest of the nation doesn't?

Of course, taking these actions won't be the silver bullet to all of Oregon's problems. You know as well as I do that many of our challenges are deeply woven into the broken institutional systems and underinvestment we have in this state. So please, make progress on those issues - but do not use that as an excuse for not acting now. Do not let the perfect become the enemy of the good. You can make real progress – at the individual and local level by fixing these policy issues – and you begin to send a message of confidence and trust to local governments and Oregonians alike, and a strong message to the national and international community who is watching Oregon in this moment.

Thank you for your allowing me to testify.