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82nd LEGISLATIVE ASSEMBLY
JOINT INTERIM COMMITTEE ON
ADDICTION AND COMMUNITY SAFETY RESPONSE

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To: Joint Interim Committee on Addiction and Community Safety Response

From: Brian Nieuburt, LPRO Analyst
Gillian Fischer, LPRO Analyst

Subject: House Bill 4002 Amendment Summary

For the purposes of this summary, the provisions of the requested amendment for House Bill 4002 (relating to addiction crisis) have been loosely categorized into the subject areas of behavioral health and public safety. The summaries reflect the policy goals articulated by the amendment request and are intended to provide a preview of the language anticipated of the amendment based on that request. The actual LC amendment language may differ from the descriptions below.

Behavioral Health Provisions:

1. Utilization Review Prohibited

As requested, the LC language intends to prohibit group health insurers, health benefit plans, and coordinated care organizations from imposing prior authorization or other utilization review for drugs used to treat substance use disorders.

2. Discrimination against individuals with substance use disorders prohibited in residential care settings

As requested, the LC language intends to prohibit long term care facilities and residential facilities from refusing to admit individual based on individual's involvement with medication-assisted treatment for a substance use disorder.

3. Dispensing of and reimbursement for the cost of medications prescribe for opioid use disorder

As requested, the LC language intends to allow pharmacists to prescribe and dispense emergency refills of medications used to treat opioid use disorder in specified circumstances. It will require health benefit plans for reimburse the cost of emergency refills of medications used for the treatment of opioid used disorder if legally prescribed and dispensed.

4. Access to behavioral health treatment

As requested, the LC language intends to apply coordinated care organization network adequacy standards for providers to addiction treatment providers.

5. Alcohol and Drug Policy Commission Study

As requested, the LC language intends to require the Alcohol and Drug Policy Commission to conduct a study of barriers to youth access substance use disorder treatment, medication assisted treatment interventions in emergency departments, and substance used disorder treatment provider credentialing. It will require Commission to report to Legislative Assembly on recommendations and strategic plan for youth substance use disorder treatment by September 15, 2025.

6. Certified community behavioral health clinic program

As requested, the LC language intends to establish certified community behavioral health clinic program in Oregon Health Authority. The LC will specify minimum services to be offered by certified community behavioral health clinics. Will require Oregon Health Authority to provide funding for criteria adopted that are in addition to federal standards. Will specify procedures for establishment and adjustments to fixed cost-based rates for certified community behavioral health clinics. Will require Oregon Health Authority to submit plan to Centers for Medicare and Medicaid Services for adding new certified community behavioral health clinics to demonstration program by January 15, 2025. Will require the Oregon Health Authority to seek approval to receive federal financial participation for community behavioral health clinic program September 15, 2025.

Public Safety Provisions:

1. Delivery of Controlled Substances (DCS)

Possession with Intent to Deliver: In Oregon, a person commits the crime of delivery of a controlled substance if the person engages in the “actual, constructive, or attempted transfer” of that substance. A 1988 Oregon Court of Appeals case, *State v. Boyd*, established the rule that possession of drugs coupled with evidence of the intent to sell them, was sufficient to prove “attempted delivery” under ORS 475.005. In 2021 the Oregon Court of Appeals overturned *State*

v. Boyd by holding that evidence of possession with intent to sell, alone, was insufficient to establish the crime of delivery of a controlled substance.

As requested, the LC language intends to expand the definition of “deliver” or “delivery” to include the possession of a controlled substance with intent to transfer to another person to encompass possession of drugs coupled with evidence of intent to sell them in the crime of delivery of a controlled substance.

Increased Sentencing for Certain DCS Offenses:

As requested, the LC language intends to enhance the crime category of the sentencing guidelines grid of the Oregon Criminal Justice Commission for any DCS made within a public park, within 500 ft. of a homeless shelter or within 500 ft of a substance use disorder treatment center to an individual receiving treatment from that center.

CJAC Evaluation of Pretrial Holds: As requested, the LC language intends to direct the Chief Justice’s Criminal Justice Advisory Council to evaluate the pretrial release criteria for persons arrested for Delivery and Manufacture of Controlled Substances.

2. Possession of Controlled Substances

As requested, the LC language intends to:

- a. Establish a class C misdemeanor for possession of a controlled substance.
- b. Define “deflection program” as a behavioral health screening and case worker intervention for substance use disorder as established by this legislation and the Criminal Justice Commission by rule.
- c. Provide that it is a defense to the crime of possession of a controlled substance that the accused person completed a deflection program or that the person was not provided the opportunity to complete a deflection program.

3. Enforcement Data Tracking

As requested, the LC language intends to require any enforcement of delivery of controlled substances and possession of controlled substances, including officer-initiated stops and prosecution, be reported to the Criminal Justice Commission (CJC) to track any racial or demographic disparities. The CJC is to be required, beginning August of 2025, to report annually to the judiciary committees the results of the data tracking and along with any legislative recommendations for addressing disparities identified in the report.

4. Funding for IMPACTS Grants

The 2019 Legislature established the IMPACTS Grant Program within the CJC. This program is designed to address the shortage of comprehensive community supports and services for individuals with mental health or substance use disorders, leading to their involvement with the criminal justice system, hospitalizations and institutional placements.

As requested, the LC language intends to increase the IMPACTS program funding to support the expansion of (1) deflection programs, (2) mobile crisis units, (3) mobile MAT programs, (4) MAT in jails, and (5) case management and peer support for homeless individuals living with SUD.

5. Expansion of Welfare Hold Timeline

ORS 430.399 allows for a police officer to transport a visibly intoxicated person to a treatment or sobering center. Current statute allows for a director of a treatment facility to hold an individual for up to 48 hours. As requested, the LC language intends to extend the treatment center holds to up to 72 hours.