

Enrolled House Bill 2513

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Behavioral Health for Representative Rob Nosse)

CHAPTER

AN ACT

Relating to drugs; creating new provisions; and amending ORS 153.043, 153.062, 430.342, 430.383, 430.384, 430.387, 430.388, 430.389, 430.390, 430.391, 430.392 and 430.630.

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

SECTION 1. ORS 430.342 is amended to read:

430.342. (1) The governing body of each county or combination of counties in a mental health administrative area, as designated by the Alcohol and Drug Policy Commission, shall:

- (a) Appoint a local planning committee for alcohol and drug prevention and treatment services;
- or
- (b) Designate an already existing body to act as the local planning committee for alcohol and drug prevention and treatment services.

(2) The committee shall **coordinate with local Behavioral Health Resource Networks, described in ORS 430.389, to** identify needs and establish priorities for alcohol and drug prevention and treatment services that best suit the needs and values of the community and shall report its findings to the Oregon Health Authority, the governing bodies of the counties served by the committee and the budget advisory committee of the commission.

(3) Members of the local planning committee shall be representative of the geographic area and shall be persons with interest or experience in developing alcohol and drug prevention and treatment services. The membership of the committee shall include a number of minority members which reasonably reflects the proportion of the need for prevention, treatment and rehabilitation services of minorities in the community.

SECTION 2. ORS 430.383 is amended to read:

430.383. (1)(a) The people of Oregon find that drug addiction and overdoses are a serious problem in Oregon and that Oregon needs to expand access to drug treatment.

(b) The people of Oregon further find that a health-based approach to addiction and overdose is more effective, humane and cost-effective than criminal punishments. Making people criminals because they suffer from addiction is expensive, ruins lives and can make access to treatment and recovery more difficult.

(2)(a) The purpose of the Drug Addiction Treatment and Recovery Act of 2020 is to make screening, health assessment, treatment and recovery services for drug addiction available to all those who need and want access to those services and to adopt a health approach to drug addiction by removing criminal penalties for low-level drug possession.

(b) It is the policy of the State of Oregon:

(A) That screening, health assessment, treatment and recovery services for drug addiction are available to all those who need and want access to those services; and

(B) To encourage treatment and recovery for people struggling with substance use.

(3) The provisions of [chapter 2, Oregon Laws 2021] 430.383 to 430.390, shall be interpreted consistently with the findings, purposes and policy objectives stated in this section and shall not be limited by any policy set forth in Oregon law that could conflict with or be interpreted to conflict with the purposes and policy objectives stated in this section.

(4) As used in ORS 430.383 to 430.390, “recovery” means a process of change through which individuals improve their health and wellness, live a self-directed life and strive to reach their full potential.

SECTION 3. ORS 430.384 is amended to read:

430.384. (1) The Drug Treatment and Recovery Services Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Drug Treatment and Recovery Services Fund shall be credited to the fund.

(2) The Drug Treatment and Recovery Services Fund shall consist of:

- (a) Moneys deposited into the fund pursuant to ORS 305.231;
- (b) Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;
- (c) Moneys allocated from the Oregon Marijuana Account, pursuant to ORS 475C.726 (3)(b);
- (d) Moneys allocated from the Criminal Fine Account pursuant to ORS 137.300 (4); and
- (e) All other moneys deposited into the fund from any source.

(3) Moneys in the fund shall be continuously appropriated to the Oregon Health Authority for the purposes set forth in ORS 430.389.

(4)(a) Pursuant to subsection (2)(b) of this section, the Legislative Assembly shall appropriate or transfer to the fund an amount sufficient to fully fund the grants program required by ORS 430.389.

(b) The total amount deposited and transferred into the fund shall not be less than \$57 million for the first year [chapter 2, Oregon Laws 2021, is] **ORS 430.383 to 430.390 are** in effect.

(c) In each subsequent year, the minimum transfer amount set forth in paragraph (b) of this subsection shall be increased by not less than the sum of:

(A) \$57 million multiplied by the percentage, if any, by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly index for the fourth quarter of the calendar year 2020; and

(B) The annual increase, if any, in moneys distributed pursuant to ORS 475C.726 (3)(b).

SECTION 4. ORS 430.387 is amended to read:

430.387. The Oregon Health Authority shall cause the moneys in the Drug Treatment and Recovery Services Fund to be distributed as follows:

[(1)(a)] (1) An amount necessary for **the** administration of ORS 430.388 to 430.390 [not to exceed four percent of the moneys deposited into the fund in any biennium.]

[(b)] The amounts necessary for administration described in paragraph (a) of this subsection do not include expenditures], **excluding amounts necessary** to establish and maintain the telephone hotline described in ORS 430.391 (1).

(2) After the distribution set forth in subsection (1) of this section, the remaining moneys in the fund shall be distributed to the grants program as set forth in ORS 430.389.

SECTION 5. ORS 430.388 is amended to read:

430.388. [(1)(a)] (1) The [Director of the Oregon Health Authority shall establish an] Oversight and Accountability Council **is established** for the purpose of [determining how funds will be distributed to grant applicants and to oversee] **overseeing** the implementation of the Behavioral Health Resource Networks pursuant to ORS 430.389. [The council shall be formed on or before February 1, 2021.]

[(b)] (2) The [council] **members of the council** shall [consist of] **be** qualified individuals with experience in substance use [disorder] treatment and other addiction services[. The council shall] **and** consist of:

(a) At least one member from each of the following categories *[only]* **appointed by the director:**

(A) A representative of the Oregon Health Authority, Health Systems Division Behavioral Health Services as a nonvoting member;

(B) Three members of communities that have been disproportionately impacted by arrests, prosecution or sentencing for conduct that has been classified or reclassified as a Class E violation;

(C) A physician specializing in addiction medicine;

(D) A licensed clinical social worker;

(E) An evidence-based substance use *[disorder]* **treatment** provider;

(F) A harm reduction services provider;

(G) A person specializing in housing services for people with substance use *[disorder]* or a diagnosed mental health condition;

(H) An academic researcher specializing in drug use or drug policy;

(I) At least two people who suffered or suffer from substance use *[disorder]*;

(J) At least two recovery peers;

(K) A mental or behavioral health care provider;

(L) A representative of a coordinated care organization; **and**

(M) A person who works for a nonprofit organization that advocates for persons who experience or have experienced substance use *[disorder]*; and

[(N)] (b) The Director of the Alcohol and Drug Policy Commission or the director's designated staff person, as *[a]* **an ex officio** nonvoting member.

(3) The director shall appoint an executive director who shall report to and be responsible for the duties assigned by the director of the division within the authority that is responsible for behavioral health in consultation with the council.

[(2)] (4) A quorum consists of *[two-thirds]* **a majority** of the members of the council*[, rounded up to the next odd number of members]*.

[(3)] (5) The term of office for a member of the council is four years. *[Vacancies shall be appointed for the unexpired term.]* **Members are eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment to become immediately available for the unexpired term plus two years, but not more than a total of four years.**

[(4)(a)] (6)(a) To the extent permissible by law, a member of the council performing services for the council may receive compensation from the member's employer for time spent performing services as a council member.

(b) If a member of the council is not compensated by the member's employer as set forth in paragraph (a) of this subsection, that member shall be entitled to compensation and expenses as provided in ORS 292.495.

[(5)] (7) Members of the council are subject to and must comply with the provisions of ORS chapter 244, including ORS 244.045 (4), 244.047, 244.120 and 244.130.

SECTION 6. (1) Notwithstanding the terms of office specified in ORS 430.388, eight voting members currently serving on the Oversight and Accountability Council shall be reappointed for two-year terms at the end of their current terms, including:

(a) **At least one member from each category described in ORS 430.388 (2)(a)(B), (2)(a)(I) and (2)(a)(J); and**

(b) **Others chosen by lot.**

(2) The successors to the members who are reappointed to two-year terms shall be appointed to four-year terms.

SECTION 7. ORS 430.389 is amended to read:

430.389. (1) The Oversight and Accountability Council shall *[oversee and]* approve grants and funding **provided by the Oregon Health Authority in accordance with this section** to implement Behavioral Health Resource Networks and increase access to community care*[, as set forth below]*. A Behavioral Health Resource Network is an entity or collection of entities that individually or jointly provide some or all of the services described in subsection *[(2)(d)]* **(2)(e)** of this section.

(2)(a) [The Oversight and Accountability Council, in consultation with] The [Oregon Health] authority[,] shall [provide] **establish an equitable:**

(A) **Process for applying for grants and funding** [to] **by** agencies or organizations, whether government or community based, to establish Behavioral Health Resource Networks for the purposes of immediately screening the acute needs of [people who use drugs] **individuals with substance use, including those who also have a mental illness,** and assessing and addressing any ongoing needs through ongoing case management, harm reduction, treatment, housing and linkage to other care and services.

(B) **Evaluation process to assess the effectiveness of Behavioral Health Resource Networks that receive grants or funding.**

(b) Recipients of grants or funding [to provide substance use disorder treatment or services] must be licensed, certified or credentialed by the state, including certification under ORS 743A.168 (8), or meet criteria prescribed by rule by the [Oversight and Accountability Council] **authority** under ORS 430.390. A recipient of a grant or funding under this subsection may not use the grant or funding to supplant the recipient's existing funding.

[(b)] (c) The council and the authority shall ensure that residents of each county have access to all of the services described in paragraph [(d)] (e) of this subsection.

[(c)] (d) Applicants for grants and funding may apply individually or jointly with other network participants to provide services in one or more counties.

[(d)] (e) A network must have the capacity to provide the following services and any other services specified by the [council] **authority** by rule **but no individual participant in a network is required to provide all of the services:**

(A) Screening by certified addiction peer support or wellness specialists or other qualified persons designated by the council to determine a client's need for immediate medical or other treatment to determine what acute care is needed and where it can be best provided, identify other needs and link the client to other appropriate local or statewide services, including treatment for substance abuse and coexisting health problems, housing, employment, training and child care. Networks shall provide this service 24 hours a day, seven days a week, every calendar day of the year **through a telephone line or other means. Networks may rely on the statewide telephone hotline established by the authority under ORS 430.391 for telephone screenings during nonbusiness hours such as evenings, weekends and holidays.** Notwithstanding paragraph [(b)] (c) of this subsection, only one grantee in each network within each county is required to provide the screenings described in this subparagraph.

(B) Comprehensive behavioral health needs assessment, including a substance use [disorder] screening by a certified alcohol and drug counselor or other credentialed addiction treatment professional. The assessment shall prioritize the self-identified needs of a client.

(C) Individual intervention planning, case management and connection to services. If, after the completion of a screening, a client indicates a desire to address some or all of the identified needs, a case manager shall work with the client to design an individual intervention plan. The plan must address the client's need for substance use [disorder] treatment, coexisting health problems, housing, employment and training, child care and other services.

(D) Ongoing peer counseling and support from screening and assessment through implementation of individual intervention plans as well as peer outreach workers to engage directly with marginalized community members who could potentially benefit from the network's services.

(E) Assessment of the need for, and provision of, mobile or virtual outreach services to:

(i) Reach clients who are unable to access the network; and

(ii) Increase public awareness of network services.

(F) Harm reduction services and information and education about harm reduction services.

(G) Low-barrier substance use [disorder] treatment.

(H) Transitional and supportive housing for individuals with substance use [disorders].

[(e)] (f) If an applicant for a grant or funding under this subsection is unable to provide all of the services described in paragraph [(d)] (e) of this subsection, the applicant may identify how the

applicant intends to partner with other entities to provide the services, and the [Oregon Health] authority and the council may facilitate collaboration among applicants.

(f) (g) All services provided through the networks must be evidence-informed, trauma-informed, culturally specific, linguistically responsive, person-centered and nonjudgmental. The goal shall be to address effectively the client's substance use and any other social determinants of health.

(g) (h) The networks must be adequately staffed to address the needs of people with substance use [disorders] within their regions as prescribed by the [council] authority by rule, including, at a minimum, at least one person [qualified by the Oregon Health Authority] in each of the following categories:

(A) [Certified] Alcohol and drug counselor **certified by the authority** or other credentialed addiction treatment professional;

(B) Case manager; [and]

(C) [Certified] Addiction peer support [or] **specialist certified by the authority;**

(D) **Addiction peer** wellness specialist **certified by the authority;**

(E) **Recovery mentor, certified by the Mental Health and Addiction Certification Board of Oregon or its successor organization; and**

(F) **Youth support specialist certified by the authority.**

(h) (i) Verification of a screening by a certified addiction peer support specialist, wellness specialist or other person in accordance with [subsection (2)(d)(A) of this section] **paragraph (e)(A) of this subsection** shall promptly be provided to the client by the entity conducting the screening. If the client executes a valid release of information, the entity shall provide verification of the screening to the [Oregon Health] authority or a contractor of the authority and the authority or the authority's contractor shall forward the verification to the court, in the manner prescribed by the Chief Justice of the Supreme Court, to satisfy the conditions for dismissal under ORS 153.062 or 475.237.

(3)(a) If moneys remain in the Drug Treatment and Recovery Services Fund after the council has committed grants and funding to establish behavioral health resource networks serving every county in this state, the council shall [provide] **authorize** grants and funding to other agencies or organizations, whether government or community based, and to the nine federally recognized tribes in this state and service providers that are affiliated with the nine federally recognized tribes in this state to increase access to one or more of the following:

(A) Low-barrier substance use [disorder] treatment that is evidence-informed, trauma-informed, culturally specific, linguistically responsive, person-centered and nonjudgmental;

(B) Peer support and recovery services;

(C) Transitional, supportive and permanent housing for persons with substance use [disorder];

(D) Harm reduction interventions including, but not limited to, overdose prevention education, access to naloxone hydrochloride and sterile syringes and stimulant-specific drug education and outreach; or

(E) Incentives and supports to expand the behavioral health workforce to support the services delivered by behavioral health resource networks and entities receiving grants or funding under this subsection.

(b) A recipient of a grant or funding under this subsection may not use the grant or funding to supplant the recipient's existing funding.

(4) In awarding grants and funding under subsections [(2)] (1) and (3) of this section, the council shall:

(a) Distribute grants and funding to ensure access to:

(A) Historically underserved populations; and

(B) Culturally specific and linguistically responsive services.

(b) Consider any inventories or surveys of currently available behavioral health services.

(c) Consider available regional data related to the substance use [disorder] treatment needs and the access to culturally specific and linguistically responsive services in communities in this state.

(d) Consider the needs of residents of this state for services, supports and treatment at all ages.

(5) The council shall require any government entity that applies for a grant to specify in the application details regarding subgrantees and how the government entity will fund culturally specific organizations and culturally specific services. A government entity receiving a grant must make an explicit commitment not to supplant or decrease any existing funding used to provide services funded by the grant.

(6) In determining grants and funding to be awarded, the council may consult the comprehensive addiction, prevention, treatment and recovery plan established by the Alcohol and Drug Policy Commission under ORS 430.223 and the advice of any other group, agency, organization or individual that desires to provide advice to the council that is consistent with the terms of this section.

(7) Services provided by grantees, including services provided by a Behavioral Health Resource Network, shall be free of charge to the clients receiving the services. Grantees in each network shall seek reimbursement from insurance issuers, the medical assistance program or any other third party responsible for the cost of services provided to a client and grants and funding provided by the council or the authority under [subsection (2) of] this section may be used for copayments, deductibles or other out-of-pocket costs incurred by the client for the services.

(8) Subsection (7) of this section does not require the medical assistance program to reimburse the cost of services for which another third party is responsible in violation of 42 U.S.C. 1396a(25).

SECTION 8. ORS 430.390 is amended to read:

430.390. (1)(a) [On or before September 1, 2021, the Oversight and Accountability Council] **The Oregon Health Authority** shall adopt rules that establish **a grant application process, a process to appeal the denial of a grant and** general criteria and requirements for the Behavioral Health Resource Networks and the grants and funding required by ORS 430.389, including rules requiring recipients of grants and funding to collect and report information necessary for the Secretary of State to conduct the financial and performance audits required by ORS 430.392.

[*(b) The council shall from time to time adopt such rules, and amend and revise rules the council has adopted, as the council deems proper and necessary for the administration of chapter 2, Oregon Laws 2021, and the performance of the council's work.*]

(b) When adopting or amending rules under this subsection, the authority shall convene an advisory committee in accordance with ORS 183.333 in which members of the Oversight and Accountability Council compose a majority of the membership.

(2) [On and after July 1, 2021,] The council shall have and retain the authority to [implement and] oversee the Behavioral Health Resource Networks established under ORS 430.389 and **approve** the grants and funding under ORS 430.389.

(3) The [Oregon Health] authority shall administer and provide all necessary support to ensure the implementation of [chapter 2, Oregon Laws 2021] **ORS 430.383 to 430.390**, and that recipients of grants or funding comply with all applicable rules regulating the provision of behavioral health services.

(4)(a) The authority, in consultation with the council, may enter into interagency agreements to ensure proper distribution of funds for the grants required by ORS 430.389.

(b) The authority shall encourage and take all reasonable measures to ensure that grant recipients cooperate, coordinate and act jointly with one another to offer the services described in ORS 430.389.

(c) The authority shall post to the authority's website, at the time a grant or funding is awarded:

(A) The name of the recipient of the grant or funding;

(B) The names of any subgrantees or subcontractors of the recipient of the grant or funding; and

(C) The amount of the grant or funding awarded.

(5) The authority shall provide requested technical, logistical and other support to the council to assist the council with the council's duties and obligations.

(6) The Department of Justice shall provide legal services to the council if requested to assist the council in carrying out the council's duties and obligations.

SECTION 9. ORS 430.391 is amended to read:

430.391. (1) [Not later than February 1, 2021,] The Oregon Health Authority shall establish a Behavioral Health Resource Network statewide telephone hotline to[.]

[(a) Provide screenings under ORS 430.389 (2)(d) to any resident in this state by certified addiction peer support or wellness specialists, as defined by the authority by rule, or other qualified persons designated by the Oversight and Accountability Council;]

[(b) Assess a caller's need for immediate medical care or other treatment and determine what acute care is needed and where it can be provided;]

[(c) Identify other needs of the caller; and]

[(d) Link the caller to other appropriate local or statewide services, including treatment for substance abuse and other coexisting health problems, housing, employment, training and child care] **provide screenings described in ORS 430.389 (2)(e)(A) to any caller who is a resident of this state.**

(2) The telephone hotline shall be staffed 24 hours a day, seven days a week, every calendar day of the year. Following a screening, at the request of a caller, the telephone hotline shall promptly provide the verification set forth in ORS 430.389 [(2)(h)] **(2)(i)**.

SECTION 10. ORS 430.392 is amended to read:

430.392. (1) The Division of Audits of the office of the Secretary of State shall conduct performance audits and financial reviews as provided in this section, regarding the uses of the Drug Treatment and Recovery Services Fund and the effectiveness of the fund in achieving the purposes of the fund and the policy objectives of ORS 430.383. Recipients of grants or funds under ORS 430.389 shall keep accurate books, records and accounts that are subject to inspection and audit by the division.

(2) [No later than two years after the completion of an audit or financial review,]The division shall monitor and report on the progress in implementing any recommendations made in the audit or financial review. The division shall follow up on recommendations as part of recurring audit work or as an activity separate from other audit activity. When following up on recommendations, the division may request from the appropriate agency evidence of implementation.

(3) The audits set forth in this section shall be conducted pursuant to the provisions of ORS chapter 297, except to the extent any provision of ORS chapter 297 conflicts with any provision of ORS 293.665 and 305.231 and 430.383 to 430.390, in which case the provisions of ORS 293.665 and 305.231 and 430.383 to 430.390 shall control.

(4) No later than December 31, 2023, the division shall perform a:

(a) Real-time audit, as prescribed by the division, which shall include an assessment of the relationship between the Oversight and Accountability Council and the Oregon Health Authority, the relationship between the council and recipients of grants or funding and the structural integrity of ORS 293.665 and 305.231 and 430.383 to 430.390, including but not limited to assessing:

(A) Whether the organizational structure of the council contains conflicts or problems.

(B) Whether the rules adopted by the council are clear and functioning properly.

(C) Whether the council has sufficient authority and independence to achieve the council's mission.

(D) Whether the authority is fulfilling the authority's duties under ORS 430.384, 430.387, [430.388,] 430.390 and 430.391.

(E) Whether there are conflicts of interest in the process of awarding grants or funding.

(F) Whether there are opportunities to expand collaboration between the council and state agencies.

(G) Whether barriers exist in data collection and evaluation mechanisms.

(H) Who is providing the data.

(I) Other areas identified by the division.

(b) Financial review, which shall include an assessment of the following:

[(A) The functioning of the grants and funding systems between the council, the authority and recipients of grants or funding, including by gathering information on who is receiving what grants and

funding, the process of applying for the grants and funding and whether that process is conducive to obtaining qualified applicants and applicants from communities of color.]

[(B)] (A) Whether grants and funding are going to organizations that are culturally responsive and linguistically specific, including an assessment of:

(i) The barriers that exist for grant and funding applicants who are Black, Indigenous or People of Color.

(ii) The applicants that were denied and why.

(iii) Whether grants and other funding are being disbursed based on the priorities specified in ORS 430.389.

(iv) For government entities receiving grants or funding under ORS 430.389, the government entities' subgrantees and whether the governmental entity supplanted or decreased any local funding dedicated to the same services after receiving grants or funds under ORS 430.389.

[(v) *Whether the authority has stayed within its administrative spending cap.*]

[(vi)] (v) What proportion of grants or funds received by grantees and others under ORS 430.389, was devoted to administrative costs.

[(C)] (B) The organizations and agencies receiving grants or funding under ORS 430.389 and:

(i) Which of the organizations and agencies are Behavioral Health Resource Network entities.

(ii) The amount each organization and agency received.

(iii) The total number of organizations and agencies that applied for grants or funding.

(iv) The amount of moneys from the fund that were used to administer the programs selected by the council.

(v) The moneys that remained in the Drug Treatment and Recovery Services Fund after grants and funding were disbursed.

[(vi) *A performance assessment of each grant or funding recipient.*]

[(D) *Other areas identified by the division.*]

(5) No later than December 31, [2024] **2025**, the division shall conduct a performance audit, which must include an assessment of the following:

(a) All relevant data regarding the implementation of ORS 153.062 and 430.391, including demographic information on individuals who receive citations subject to ORS 153.062 and 430.391 and whether the citations resulted in connecting the individuals with treatment.

(b) The functioning of:

(A) Law enforcement and the courts in relation to Class E violation citations;

(B) The telephone hotline operated by the authority; [and]

(C) Entities providing verification of screenings under ORS 430.389[.]; and

(D) The grants and funding systems between the council, the authority and recipients of grants or funding, including by gathering information about which entities are receiving grants or funding and what the grants or funding are used for, the process of applying for grants or funding and whether the process is conducive to obtaining qualified applicants for grants or funding who are from communities of color.

(c) Disparities shown by demographic data and whether the citation data reveals a disproportionate use of citations in communities most impacted by the war on drugs.

(d) Whether ORS 153.062, 430.389 and 430.391 reduce the involvement in the criminal justice system of individuals with substance use [disorder].

(e) Training opportunities provided to law enforcement officials regarding services that are available and how to connect individuals to the services.

(f) The efficacy of issuing citations as a method of connecting individuals to services.

(g) The role of the implementation of ORS 430.383 to 430.390 in reducing overdose rates.

[(e)] (h) Outcomes for individuals receiving treatment and other social services under ORS 430.389, including, but not limited to, the following:

(A) Whether access to care increased since December 3, 2020, and, if data is available, whether, since December 3, 2020:

(i) The number of drug and alcohol treatment service providers increased.

(ii) The number of culturally specific providers increased.

[(iii) Overdose rates have decreased.]

[(iv)] (iii) Access to harm reduction services has increased.

[(v)] (iv) More individuals are accessing treatment than they were before December 3, 2020.

[(vi)] (v) Access to housing for individuals with substance use [disorder] has increased.

(B) Data on Behavioral Health Resource Networks and recipients of grants and funding under ORS 430.389, including:

(i) The outcomes of each network or recipient, including but not limited to the number of clients with substance use [disorder] receiving services from each network or recipient, the average duration of client participation and client outcomes.

(ii) The number of individuals seeking assistance from the network or recipients who are denied or not connected to substance use [disorder] treatment and other services, and the reasons for the denials.

(iii) The average time it takes for clients to access services and fulfill their individual intervention plan and the reason for any delays, such as waiting lists at referred services.

(iv) Whether average times to access services to which clients are referred, such as housing or medically assisted treatment, have decreased over time since December 3, 2020.

(v) Demographic data on clients served by Behavioral Health Resource Networks, including self-reported demographic data on race, ethnicity, gender and age.

(i) Each recipient of a grant or funding.

(j) Other areas identified by the division for ascertaining best practices for overdose prevention.

(6) *[After the initial audit and financial review under subsection (4) of this section,]* The division shall conduct periodic performance audits and financial reviews pursuant to the division's annual audit plan and taking into consideration the risks of the program.

SECTION 11. ORS 430.392, as amended by section 10 of this 2023 Act, is amended to read:

430.392. (1) The Division of Audits of the office of the Secretary of State shall conduct performance audits and financial reviews as provided in this section, regarding the uses of the Drug Treatment and Recovery Services Fund and the effectiveness of the fund in achieving the purposes of the fund and the policy objectives of ORS 430.383. Recipients of grants or funds under ORS 430.389 shall keep accurate books, records and accounts that are subject to inspection and audit by the division.

(2) The division shall monitor and report on the progress in implementing any recommendations made in the audit or financial review. The division shall follow up on recommendations as part of recurring audit work or as an activity separate from other audit activity. When following up on recommendations, the division may request from the appropriate agency evidence of implementation.

(3) The audits set forth in this section shall be conducted pursuant to the provisions of ORS chapter 297, except to the extent any provision of ORS chapter 297 conflicts with any provision of ORS 293.665 and 305.231 and 430.383 to 430.390, in which case the provisions of ORS 293.665 and 305.231 and 430.383 to 430.390 shall control.

[(4) No later than December 31, 2023, the division shall perform a:]

[(a) Real-time audit, as prescribed by the division, which shall include an assessment of the relationship between the Oversight and Accountability Council and the Oregon Health Authority, the relationship between the council and recipients of grants or funding and the structural integrity of ORS 293.665 and 305.231 and 430.383 to 430.390, including but not limited to assessing:]

[(A) Whether the organizational structure of the council contains conflicts or problems.]

[(B) Whether the rules adopted by the council are clear and functioning properly.]

[(C) Whether the council has sufficient authority and independence to achieve the council's mission.]

[(D) Whether the authority is fulfilling the authority's duties under ORS 430.384, 430.387, 430.388, 430.390 and 430.391.]

[(E) Whether there are conflicts of interest in the process of awarding grants or funding.]

[(F) Whether there are opportunities to expand collaboration between the council and state agencies.]

[(G) Whether barriers exist in data collection and evaluation mechanisms.]

[(H) Who is providing the data.]

[(I) Other areas identified by the division.]

[(b) Financial review, which shall include an assessment of the following:]

[(A) Whether grants and funding are going to organizations that are culturally responsive and linguistically specific, including an assessment of:]

[(i) The barriers that exist for grant and funding applicants who are Black, Indigenous or People of Color.]

[(ii) The applicants that were denied and why.]

[(iii) Whether grants and other funding are being disbursed based on the priorities specified in ORS 430.389.]

[(iv) For government entities receiving grants or funding under ORS 430.389, the government entities' subgrantees and whether the governmental entity supplanted or decreased any local funding dedicated to the same services after receiving grants or funds under ORS 430.389.]

[(v) What proportion of grants or funds received by grantees and others under ORS 430.389, was devoted to administrative costs.]

[(B) The organizations and agencies receiving grants or funding under ORS 430.389 and:]

[(i) Which of the organizations and agencies are Behavioral Health Resource Network entities.]

[(ii) The amount each organization and agency received.]

[(iii) The total number of organizations and agencies that applied for grants or funding.]

[(iv) The amount of moneys from the fund that were used to administer the programs selected by the council.]

[(v) The moneys that remained in the Drug Treatment and Recovery Services Fund after grants and funding were disbursed.]

[(5) No later than December 31, 2025, the division shall conduct a performance audit, which must include an assessment of the following:]

[(a) All relevant data regarding the implementation of ORS 153.062 and 430.391, including demographic information on individuals who receive citations subject to ORS 153.062 and 430.391 and whether the citations resulted in connecting the individuals with treatment.]

[(b) The functioning of:]

[(A) Law enforcement and the courts in relation to Class E violation citations;]

[(B) The telephone hotline operated by the authority;]

[(C) Entities providing verification of screenings under ORS 430.389; and]

[(D) The grants and funding systems between the council, the authority and recipients of grants or funding, including by gathering information about which entities are receiving grants or funding and what the grants or funding are used for, the process of applying for grants or funding and whether the process is conducive to obtaining qualified applicants for grants or funding who are from communities of color.]

[(c) Disparities shown by demographic data and whether the citation data reveals a disproportionate use of citations in communities most impacted by the war on drugs.]

[(d) Whether ORS 153.062, 430.389 and 430.391 reduce the involvement in the criminal justice system of individuals with substance use.]

[(e) Training opportunities provided to law enforcement officials regarding services that are available and how to connect individuals to the services.]

[(f) The efficacy of issuing citations as a method of connecting individuals to services.]

[(g) The role of the implementation of ORS 430.383 to 430.390 in reducing overdose rates.]

[(h) Outcomes for individuals receiving treatment and other social services under ORS 430.389, including, but not limited to, the following:]

[(A) Whether access to care increased since December 3, 2020, and, if data is available, whether, since December 3, 2020:]

[(i) The number of drug and alcohol treatment service providers increased.]

[(ii) The number of culturally specific providers increased.]

[(iii) Access to harm reduction services has increased.]

[(iv) More individuals are accessing treatment than they were before December 3, 2020.]

[(v) Access to housing for individuals with substance use has increased.]

[(B) Data on Behavioral Health Resource Networks and recipients of grants and funding under ORS 430.389, including:]

[(i) The outcomes of each network or recipient, including but not limited to the number of clients with substance use receiving services from each network or recipient, the average duration of client participation and client outcomes.]

[(ii) The number of individuals seeking assistance from the network or recipients who are denied or not connected to substance use treatment and other services, and the reasons for the denials.]

[(iii) The average time it takes for clients to access services and fulfill their individual intervention plan and the reason for any delays, such as waiting lists at referred services.]

[(iv) Whether average times to access services to which clients are referred, such as housing or medically assisted treatment, have decreased over time since December 3, 2020.]

[(v) Demographic data on clients served by Behavioral Health Resource Networks, including self-reported demographic data on race, ethnicity, gender and age.]

[(i) Each recipient of a grant or funding.]

[(j) Other areas identified by the division for ascertaining best practices for overdose prevention.]

[(6)] (4) The division shall conduct periodic performance audits and financial reviews pursuant to the division's annual audit plan and taking into consideration the risks of the program.

SECTION 12. ORS 430.630 is amended to read:

430.630. (1) In addition to any other requirements that may be established by rule by the Oregon Health Authority, each community mental health program, subject to the availability of funds, shall provide **guidance and assistance to local Behavioral Health Resource Networks for the joint development of programs and activities to increase access to treatment and shall provide** the following basic services to persons with alcoholism or drug dependence, and persons who are alcohol or drug abusers:

(a) Outpatient services;

(b) Aftercare for persons released from hospitals;

(c) Training, case and program consultation and education for community agencies, related professions and the public;

(d) Guidance and assistance to other human service agencies for joint development of prevention programs and activities to reduce factors causing alcohol abuse, alcoholism, drug abuse and drug dependence; and

(e) Age-appropriate treatment options for older adults.

(2) As alternatives to state hospitalization, it is the responsibility of the community mental health program to ensure that, subject to the availability of funds, the following services for persons with alcoholism or drug dependence, and persons who are alcohol or drug abusers, are available when needed and approved by the Oregon Health Authority:

(a) Emergency services on a 24-hour basis, such as telephone consultation, crisis intervention and prehospital screening examination;

(b) Care and treatment for a portion of the day or night, which may include day treatment centers, work activity centers and after-school programs;

(c) Residential care and treatment in facilities such as halfway houses, detoxification centers and other community living facilities;

(d) Continuity of care, such as that provided by service coordinators, community case development specialists and core staff of federally assisted community mental health centers;

(e) Inpatient treatment in community hospitals; and

(f) Other alternative services to state hospitalization as defined by the Oregon Health Authority.

(3) In addition to any other requirements that may be established by rule of the Oregon Health Authority, each community mental health program, subject to the availability of funds, shall provide or ensure the provision of the following services to persons with mental or emotional disturbances:

- (a) Screening and evaluation to determine the client's service needs;
- (b) Crisis stabilization to meet the needs of persons with acute mental or emotional disturbances, including the costs of investigations and prehearing detention in community hospitals or other facilities approved by the authority for persons involved in involuntary commitment procedures;
- (c) Vocational and social services that are appropriate for the client's age, designed to improve the client's vocational, social, educational and recreational functioning;
- (d) Continuity of care to link the client to housing and appropriate and available health and social service needs;
- (e) Psychiatric care in state and community hospitals, subject to the provisions of subsection (4) of this section;
- (f) Residential services;
- (g) Medication monitoring;
- (h) Individual, family and group counseling and therapy;
- (i) Public education and information;
- (j) Prevention of mental or emotional disturbances and promotion of mental health;
- (k) Consultation with other community agencies;
- (L) Preventive mental health services for children and adolescents, including primary prevention efforts, early identification and early intervention services. Preventive services should be patterned after service models that have demonstrated effectiveness in reducing the incidence of emotional, behavioral and cognitive disorders in children. As used in this paragraph:

(A) "Early identification" means detecting emotional disturbance in its initial developmental stage;

(B) "Early intervention services" for children at risk of later development of emotional disturbances means programs and activities for children and their families that promote conditions, opportunities and experiences that encourage and develop emotional stability, self-sufficiency and increased personal competence; and

(C) "Primary prevention efforts" means efforts that prevent emotional problems from occurring by addressing issues early so that disturbances do not have an opportunity to develop; and

(m) Preventive mental health services for older adults, including primary prevention efforts, early identification and early intervention services. Preventive services should be patterned after service models that have demonstrated effectiveness in reducing the incidence of emotional and behavioral disorders and suicide attempts in older adults. As used in this paragraph:

(A) "Early identification" means detecting emotional disturbance in its initial developmental stage;

(B) "Early intervention services" for older adults at risk of development of emotional disturbances means programs and activities for older adults and their families that promote conditions, opportunities and experiences that encourage and maintain emotional stability, self-sufficiency and increased personal competence and that deter suicide; and

(C) "Primary prevention efforts" means efforts that prevent emotional problems from occurring by addressing issues early so that disturbances do not have an opportunity to develop.

(4) A community mental health program shall assume responsibility for psychiatric care in state and community hospitals, as provided in subsection (3)(e) of this section, in the following circumstances:

(a) The person receiving care is a resident of the county served by the program. For purposes of this paragraph, "resident" means the resident of a county in which the person maintains a current mailing address or, if the person does not maintain a current mailing address within the state, the county in which the person is found, or the county in which a court-committed person with a mental illness has been conditionally released.

(b) The person has been hospitalized involuntarily or voluntarily, pursuant to ORS 426.130 or 426.220, except for persons confined to the Secure Child and Adolescent Treatment Unit at Oregon State Hospital, or has been hospitalized as the result of a revocation of conditional release.

(c) Payment is made for the first 60 consecutive days of hospitalization.

(d) The hospital has collected all available patient payments and third-party reimbursements.

(e) In the case of a community hospital, the authority has approved the hospital for the care of persons with mental or emotional disturbances, the community mental health program has a contract with the hospital for the psychiatric care of residents and a representative of the program approves voluntary or involuntary admissions to the hospital prior to admission.

(5) Subject to the review and approval of the Oregon Health Authority, a community mental health program may initiate additional services after the services defined in this section are provided.

(6) Each community mental health program and the state hospital serving the program's geographic area shall enter into a written agreement concerning the policies and procedures to be followed by the program and the hospital when a patient is admitted to, and discharged from, the hospital and during the period of hospitalization.

(7) Each community mental health program shall have a mental health advisory committee, appointed by the board of county commissioners or the county court or, if two or more counties have combined to provide mental health services, the boards or courts of the participating counties or, in the case of a Native American reservation, the tribal council.

(8) A community mental health program may request and the authority may grant a waiver regarding provision of one or more of the services described in subsection (3) of this section upon a showing by the county and a determination by the authority that persons with mental or emotional disturbances in that county would be better served and unnecessary institutionalization avoided.

(9)(a) As used in this subsection, "local mental health authority" means one of the following entities:

(A) The board of county commissioners of one or more counties that establishes or operates a community mental health program;

(B) The tribal council, in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(C) A regional local mental health authority comprising two or more boards of county commissioners.

(b) Each local mental health authority that provides mental health services shall determine the need for local mental health services and adopt a comprehensive local plan for the delivery of mental health services for children, families, adults and older adults that describes the methods by which the local mental health authority shall provide those services. The purpose of the local plan is to create a blueprint to provide mental health services that are directed by and responsive to the mental health needs of individuals in the community served by the local plan. A local mental health authority shall coordinate its local planning with the development of the community health improvement plan under ORS 414.575 by the coordinated care organization serving the area. The Oregon Health Authority may require a local mental health authority to review and revise the local plan periodically.

(c) The local plan shall identify ways to:

(A) Coordinate and ensure accountability for all levels of care described in paragraph (e) of this subsection;

(B) Maximize resources for consumers and minimize administrative expenses;

(C) Provide supported employment and other vocational opportunities for consumers;

(D) Determine the most appropriate service provider among a range of qualified providers;

(E) Ensure that appropriate mental health referrals are made;

(F) Address local housing needs for persons with mental health disorders;

(G) Develop a process for discharge from state and local psychiatric hospitals and transition planning between levels of care or components of the system of care;

(H) Provide peer support services, including but not limited to drop-in centers and paid peer support;

(I) Provide transportation supports; and

(J) Coordinate services among the criminal and juvenile justice systems, adult and juvenile corrections systems and local mental health programs to ensure that persons with mental illness who come into contact with the justice and corrections systems receive needed care and to ensure continuity of services for adults and juveniles leaving the corrections system.

(d) When developing a local plan, a local mental health authority shall:

(A) Coordinate with the budgetary cycles of state and local governments that provide the local mental health authority with funding for mental health services;

(B) Involve consumers, advocates, families, service providers, schools and other interested parties in the planning process;

(C) Coordinate with the local public safety coordinating council to address the services described in paragraph (c)(J) of this subsection;

(D) Conduct a population based needs assessment to determine the types of services needed locally;

(E) Determine the ethnic, age-specific, cultural and diversity needs of the population served by the local plan;

(F) Describe the anticipated outcomes of services and the actions to be achieved in the local plan;

(G) Ensure that the local plan coordinates planning, funding and services with:

(i) The educational needs of children, adults and older adults;

(ii) Providers of social supports, including but not limited to housing, employment, transportation and education; and

(iii) Providers of physical health and medical services;

(H) Describe how funds, other than state resources, may be used to support and implement the local plan;

(I) Demonstrate ways to integrate local services and administrative functions in order to support integrated service delivery in the local plan; and

(J) Involve the local mental health advisory committees described in subsection (7) of this section.

(e) The local plan must describe how the local mental health authority will ensure the delivery of and be accountable for clinically appropriate services in a continuum of care based on consumer needs. The local plan shall include, but not be limited to, services providing the following levels of care:

(A) Twenty-four-hour crisis services;

(B) Secure and nonsecure extended psychiatric care;

(C) Secure and nonsecure acute psychiatric care;

(D) Twenty-four-hour supervised structured treatment;

(E) Psychiatric day treatment;

(F) Treatments that maximize client independence;

(G) Family and peer support and self-help services;

(H) Support services;

(I) Prevention and early intervention services;

(J) Transition assistance between levels of care;

(K) Dual diagnosis services;

(L) Access to placement in state-funded psychiatric hospital beds;

(M) Precommitment and civil commitment in accordance with ORS chapter 426; and

(N) Outreach to older adults at locations appropriate for making contact with older adults, including senior centers, long term care facilities and personal residences.

(f) In developing the part of the local plan referred to in paragraph (c)(J) of this subsection, the local mental health authority shall collaborate with the local public safety coordinating council to address the following:

(A) Training for all law enforcement officers on ways to recognize and interact with persons with mental illness, for the purpose of diverting them from the criminal and juvenile justice systems;

(B) Developing voluntary locked facilities for crisis treatment and follow-up as an alternative to custodial arrests;

(C) Developing a plan for sharing a daily jail and juvenile detention center custody roster and the identity of persons of concern and offering mental health services to those in custody;

(D) Developing a voluntary diversion program to provide an alternative for persons with mental illness in the criminal and juvenile justice systems; and

(E) Developing mental health services, including housing, for persons with mental illness prior to and upon release from custody.

(g) Services described in the local plan shall:

(A) Address the vision, values and guiding principles described in the Report to the Governor from the Mental Health Alignment Workgroup, January 2001;

(B) Be provided to children, older adults and families as close to their homes as possible;

(C) Be culturally appropriate and competent;

(D) Be, for children, older adults and adults with mental health needs, from providers appropriate to deliver those services;

(E) Be delivered in an integrated service delivery system with integrated service sites or processes, and with the use of integrated service teams;

(F) Ensure consumer choice among a range of qualified providers in the community;

(G) Be distributed geographically;

(H) Involve consumers, families, clinicians, children and schools in treatment as appropriate;

(I) Maximize early identification and early intervention;

(J) Ensure appropriate transition planning between providers and service delivery systems, with an emphasis on transition between children and adult mental health services;

(K) Be based on the ability of a client to pay;

(L) Be delivered collaboratively;

(M) Use age-appropriate, research-based quality indicators;

(N) Use best-practice innovations; and

(O) Be delivered using a community-based, multisystem approach.

(h) A local mental health authority shall submit to the Oregon Health Authority a copy of the local plan and revisions adopted under paragraph (b) of this subsection at time intervals established by the Oregon Health Authority.

SECTION 13. ORS 153.043 is amended to read:

153.043. (1) An enforcement officer issuing a citation for a Class E violation shall provide the person receiving the citation with information concerning how the person may complete a screening, as specified in ORS 430.389 [(2)(d)(A)] **(2)(e)(A)**.

(2) The requirement described in subsection (1) of this section may be satisfied by providing the person with the number for the telephone hotline established under ORS 430.391.

SECTION 14. ORS 153.062 is amended to read:

153.062. (1) Notwithstanding ORS 153.018, 153.019 and 153.021, and subject to subsection (2) of this section, a person subject to the penalty for a Class E violation may, in lieu of the fine, complete a screening, as set forth in ORS 430.389 [(2)(d)(A)] **(2)(e)(A)**, or any other equivalent or more intensive treatment contact, within 45 days of when the person receives the citation for the Class E violation.

(2) Upon receiving verification that the person has obtained a screening through a Behavioral Health Resource Network, including the telephone hotline described in ORS 430.391 (1), or any other equivalent or more intensive treatment contact, within the time period described in subsection (1) of this section, the court shall dismiss the citation.

(3) The failure to pay a fine on a Class E violation is not a basis for further penalties or for a term of incarceration.

SECTION 15. The amendments to ORS 430.392 by section 11 of this 2023 Act become operative on January 2, 2026.

SECTION 16. Section 17 of this 2023 Act is added to and made a part of ORS 430.383 to 430.390.

SECTION 17. If approved by the Oversight and Accountability Council, the Oregon Health Authority may implement an education campaign to inform the public about the availability of Behavioral Health Resource Networks, the statewide hotline described in ORS 430.391 and any other information the authority believes would benefit the public in accessing behavioral health services.

SECTION 18. Section 17 of this 2023 Act becomes operative on July 1, 2025.

Passed by House April 13, 2023

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 21, 2023

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Rob Wagner, President of Senate

Received by Governor:

.....M,....., 2023

Approved:

.....M,....., 2023

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2023

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Secretary of State