

HB 4002-10
(LC 152)
2/19/24
(JLM/LHF/LAS/ps)

Requested by Representative MANNIX

**PROPOSED AMENDMENTS TO
HOUSE BILL 4002**

1 In line 2 of the printed bill, delete the period and insert “; creating new
2 provisions; amending ORS 51.050, 90.440, 109.675, 109.680, 135.233, 135.235,
3 135.245, 135.265, 137.225, 137.300, 153.012, 153.018, 153.019, 153.021, 153.064,
4 153.992, 161.570, 221.339, 414.609, 414.766, 419C.370, 419C.460, 426.005, 426.070,
5 426.074, 426.170, 426.180, 426.220, 426.225, 426.228, 426.231, 426.232, 426.233,
6 426.234, 426.237, 426.241, 430.306, 430.384, 430.389, 430.392, 430.397, 430.399,
7 430.401, 431A.463, 475.005, 475.235, 475.752, 475.814, 475.824, 475.834, 475.854,
8 475.874, 475.884, 475.894, 670.280, 743A.168, 750.055 and 750.333; repealing ORS
9 153.043, 153.062, 430.402 and 475.237 and section 15, chapter 248, Oregon Laws
10 2023; and declaring an emergency.”.

11 Delete lines 4 through 8 and insert:
12

13 **“STATEWIDE PREVENTION AND TREATMENT COORDINATION**
14 **“(Office for Drug Prevention and Treatment)**
15

16 **“SECTION 1. (1) The office for Drug Prevention and Treatment is**
17 **created within the office of the Governor. The Governor shall appoint**
18 **an executive officer for the office for Drug Prevention and Treatment.**
19 **The executive officer:**

20 **“(a) Shall coordinate all drug prevention and treatment programs**
21 **that are directly funded by the state, including but not limited to:**

1 **“(A) Programs for drug intervention and treatment under a**
2 **Strengthening, Preserving and Reunifying Families program described**
3 **in ORS 418.580;**

4 **“(B) Programs administered by the Director of the Oregon Health**
5 **Authority under ORS 430.256;**

6 **“(C) Programs provided directly by the Oregon Health Authority or**
7 **indirectly by contract with publicly or privately operated profit or**
8 **nonprofit facilities for the care of individuals with substance use dis-**
9 **orders under ORS 430.335;**

10 **“(D) Programs funded through the Drug Addiction Treatment and**
11 **Recovery Act, ORS 430.383 to 430.390 and 430.394;**

12 **“(E) Programs for integrating drug treatment services into the**
13 **criminal justice system under ORS 430.420 (3);**

14 **“(F) Programs administered with funding from the Drug Prevention**
15 **and Education Fund established in ORS 430.422;**

16 **“(G) Programs providing detoxification and detoxification with**
17 **acupuncture and counseling under ORS 430.560;**

18 **“(H) Programs providing crisis stabilization services through the**
19 **statewide coordinated crisis system described in ORS 430.626 to 430.628;**
20 **and**

21 **“(I) Regional centers for the treatment of adolescents with drug and**
22 **alcohol dependencies under ORS 430.709; and**

23 **“(b) May coordinate programs that provide grants to private or-**
24 **ganizations to operate drug prevention and treatment programs, in-**
25 **cluding but not limited to:**

26 **“(A) Grantees of community violence prevention grants that pro-**
27 **vide substance use disorder treatment under ORS 184.521;**

28 **“(B) Grantees that provide comprehensive community supports and**
29 **services for individuals with substance use disorders through the Im-**
30 **proving People’s Access to Community-based Treatment, Supports and**

1 **Services program established in ORS 430.231;**

2 **“(C) Grantees that provide drug abuse prevention, early inter-**
3 **vention and treatment services with funding provided under ORS**
4 **430.345;**

5 **“(D) Residential treatment facilities for individuals with substance**
6 **use disorders funded under ORS 430.643 with moneys disbursed from**
7 **the Behavioral Health Housing Incentive Fund established in ORS**
8 **430.641; and**

9 **“(E) Subgrantees that provide substance use disorder treatment**
10 **with funding provided by the Oregon Criminal Justice Commission**
11 **through the Northwest Health Foundation Fund II under section 15,**
12 **chapter 78, Oregon Laws 2022.**

13 **“(2) The executive officer shall appoint five associate directors, each**
14 **assigned to a geographic region of this state, to assist the executive**
15 **officer in the coordination of programs in each region.**

16 **“(3) The executive officer may be removed for cause by the Gover-**
17 **nor. The Governor shall replace an executive officer removed under**
18 **this section without delay. If the position of the executive officer be-**
19 **comes vacant, an associate director named by the Governor shall serve**
20 **as the acting executive officer until a new executive officer has been**
21 **appointed.**

22 **“(4) The executive officer is in the exempt service.**

23 **“(5)(a) The executive officer shall select, appoint and fix the com-**
24 **penensation of the associate directors.**

25 **“(b) The executive officer may delegate to an associate director any**
26 **authority, power or duty to act possessed by the executive officer ex-**
27 **cept the power to delegate set forth in this paragraph.**

28 **“(6)(a) The executive officer may hire and fix the compensation of**
29 **other professional staff to assist in performing the duties assigned to**
30 **the executive officer.**

1 “(b) Associate directors and employees of the office for Drug Pre-
2 vention and Treatment are in the exempt service.

3 “(7) The executive officer may seek out office facilities and admin-
4 istrative support from other state agencies or local public bodies. State
5 agencies shall assist the executive officer. Local public bodies may
6 assist the executive officer.

7 “SECTION 2. (1) The executive officer of the office for Drug Pre-
8 vention and Treatment shall convene a work group to determine and
9 plan for the best use of the Dome Building on the campus of the
10 Oregon State Hospital in Salem as a residential treatment facility
11 serving the entire state by providing substance use and mental health
12 treatment for individuals who:

13 “(a) Have been committed to the custody of the Oregon Health
14 Authority under ORS 426.130; or

15 “(b) Need treatment for or who are in recovery from substance use
16 disorders.

17 “(2) The plan for using the Dome Building as a residential treat-
18 ment facility developed under subsection (1) of this section must en-
19 sure that upon discharge, residents are placed back in the
20 communities where they resided before entering residential treatment.

21 “(3) No later than February 3, 2025, the executive officer shall report
22 to the committees of the Legislative Assembly related to behavioral
23 health, in the manner provided in ORS 192.245, the determinations and
24 plans for the Dome Building developed by the work group under this
25 section.

26 “SECTION 3. Section 1 of this 2024 Act is repealed on January 2,
27 2027.

28 “SECTION 4. Section 2 of this 2024 Act is repealed on January 2,
29 2026.

30

1 **“(OSU Extension Services Project to**
2 **Accelerate Promotion of Behavioral Health)**

3
4 **“SECTION 5. The Oregon State University Extension Service shall**
5 **oversee a project to accelerate the promotion of behavioral health in**
6 **Oregon by:**

7 **“(1) Convening local committees from across the behavioral health**
8 **sector to develop a plan to promote behavioral health;**

9 **“(2) Facilitating community conversations about mental health and**
10 **substance use; and**

11 **“(3) Contributing to any follow-up actions taken by counties or re-**
12 **gions that choose to participate in the project.**

13
14 **“BEHAVIORAL HEALTH TREATMENT**
15 **“(Payment for Substance Use Disorder Medications)**

16
17 **“SECTION 6. Section 7 of this 2024 Act is added to and made a part**
18 **of ORS chapter 743A.**

19 **“SECTION 7. (1) As used in this section:**

20 **“(a) ‘Group health insurance’ has the meaning given that term in**
21 **ORS 731.098.**

22 **“(b) ‘Health benefit plan’ has the meaning given that term in ORS**
23 **743B.005.**

24 **“(c) ‘Substance use disorder’ has the meaning given that term in**
25 **the fifth edition of the Diagnostic and Statistical Manual of Mental**
26 **Disorders published by the American Psychiatric Association.**

27 **“(d) ‘Utilization review’ has the meaning given that term in ORS**
28 **743B.001.**

29 **“(2) Notwithstanding any provision of ORS 743A.168, an issuer of**
30 **group health insurance or an individual health benefit plan, other than**

1 a grandfathered health plan:

2 “(a) May not impose a requirement for prior authorization or any
3 other form of utilization review for the reimbursement of a covered
4 medication approved by the United States Food and Drug Adminis-
5 tration that is prescribed for the purpose of treating a substance use
6 disorder, including but not limited to opioid addiction and opioid
7 withdrawal.

8 “(b) Shall reimburse the cost of refills of medications described in
9 paragraph (a) of this subsection if dispensed by a licensed health care
10 professional who is legally authorized to dispense such medications.

11 “(3) Subsection (2) applies to any form of buprenorphine, including
12 but not limited to sublingual, tablet or injectible forms.

13 “(4) This section does not prohibit prior authorization or other
14 utilization review for opioids or opiates prescribed for a purpose other
15 than medication-assisted treatment or the treatment of opiate abuse
16 or addiction.

17 “(5) This section is exempt from ORS 743A.001.

18 “**SECTION 8.** ORS 743A.168 is amended to read:

19 “743A.168. (1) As used in this section:

20 “(a) ‘Behavioral health assessment’ means an evaluation by a provider, in
21 person or using telemedicine, to determine a patient’s need for behavioral
22 health treatment.

23 “(b) ‘Behavioral health condition’ has the meaning prescribed by rule by
24 the Department of Consumer and Business Services.

25 “(c) ‘Behavioral health crisis’ means a disruption in an insured’s mental
26 or emotional stability or functioning resulting in an urgent need for imme-
27 diate outpatient treatment in an emergency department or admission to a
28 hospital to prevent a serious deterioration in the insured’s mental or phys-
29 ical health.

30 “(d) ‘Facility’ means a corporate or governmental entity or other provider

1 of services for the treatment of behavioral health conditions.

2 “(e) ‘Generally accepted standards of care’ means:

3 “(A) Standards of care and clinical practice guidelines that:

4 “(i) Are generally recognized by health care providers practicing in rele-
5 vant clinical specialties; and

6 “(ii) Are based on valid, evidence-based sources; and

7 “(B) Products and services that:

8 “(i) Address the specific needs of a patient for the purpose of screening
9 for, preventing, diagnosing, managing or treating an illness, injury or con-
10 dition or symptoms of an illness, injury or condition;

11 “(ii) Are clinically appropriate in terms of type, frequency, extent, site
12 and duration; and

13 “(iii) Are not primarily for the economic benefit of an insurer or payer
14 or for the convenience of a patient, treating physician or other health care
15 provider.

16 “(f) ‘Group health insurer’ means an insurer, a health maintenance or-
17 ganization or a health care service contractor.

18 “(g) ‘Median maximum allowable reimbursement rate’ means the median
19 of all maximum allowable reimbursement rates, minus incentive payments,
20 paid for each billing code for each provider type during a calendar year.

21 “(h) ‘Prior authorization’ has the meaning given that term in ORS
22 743B.001.

23 “(i) ‘Program’ means a particular type or level of service that is organ-
24 izationally distinct within a facility.

25 “(j) ‘Provider’ means:

26 “(A) A behavioral health professional or medical professional licensed or
27 certified in this state who has met the credentialing requirement of a group
28 health insurer or an issuer of an individual health benefit plan that is not
29 a grandfathered health plan as defined in ORS 743B.005 and is otherwise el-
30 igible to receive reimbursement for coverage under the policy;

1 “(B) A health care facility as defined in ORS 433.060;
2 “(C) A residential facility as defined in ORS 430.010;
3 “(D) A day or partial hospitalization program;
4 “(E) An outpatient service as defined in ORS 430.010; or
5 “(F) A provider organization certified by the Oregon Health Authority
6 under subsection (9) of this section.

7 “(k) ‘Relevant clinical specialties’ includes but is not limited to:

8 “(A) Psychiatry;

9 “(B) Psychology;

10 “(C) Clinical sociology;

11 “(D) Addiction medicine and counseling; and

12 “(E) Behavioral health treatment.

13 “(L) ‘Standards of care and clinical practice guidelines’ includes but is
14 not limited to:

15 “(A) Patient placement criteria;

16 “(B) Recommendations of agencies of the federal government; and

17 “(C) Drug labeling approved by the United States Food and Drug Ad-
18 ministration.

19 “(m) ‘Utilization review’ has the meaning given that term in ORS
20 743B.001.

21 “(n) ‘Valid, evidence-based sources’ includes but is not limited to:

22 “(A) Peer-reviewed scientific studies and medical literature;

23 “(B) Recommendations of nonprofit health care provider professional as-
24 sociations; and

25 “(C) Specialty societies.

26 “(2) A group health insurance policy or an individual health benefit plan
27 that is not a grandfathered health plan providing coverage for hospital or
28 medical expenses, other than limited benefit coverage, shall provide coverage
29 for expenses arising from the diagnosis of behavioral health conditions and
30 medically necessary behavioral health treatment at the same level as, and

1 subject to limitations no more restrictive than, those imposed on coverage
2 or reimbursement of expenses arising from treatment for other medical con-
3 ditions. The following apply to coverage for behavioral health treatment:

4 “(a) The coverage may be made subject to provisions of the policy that
5 apply to other benefits under the policy, including but not limited to pro-
6 visions relating to copayments, deductibles and coinsurance. Copayments,
7 deductibles and coinsurance for treatment in health care facilities or resi-
8 dential facilities may not be greater than those under the policy for expenses
9 of hospitalization in the treatment of other medical conditions. Copayments,
10 deductibles and coinsurance for outpatient treatment may not be greater
11 than those under the policy for expenses of outpatient treatment of other
12 medical conditions.

13 “(b) The coverage of behavioral health treatment may not be made subject
14 to treatment limitations, limits on total payments for treatment, limits on
15 duration of treatment or financial requirements unless similar limitations
16 or requirements are imposed on coverage of other medical conditions. The
17 coverage of eligible expenses of behavioral health treatment may be limited
18 to treatment that is medically necessary as determined in accordance with
19 this section and no more stringently under the policy than for other medical
20 conditions.

21 “(c) The coverage of behavioral health treatment must include:

22 “(A) A behavioral health assessment;

23 “(B) No less than the level of services determined to be medically neces-
24 sary in a behavioral health assessment of the specific needs of a patient or
25 in a patient’s care plan:

26 “(i) To effectively treat the patient’s underlying behavioral health condi-
27 tion rather than the mere amelioration of current symptoms such as suicidal
28 ideation or psychosis; and

29 “(ii) For care following a behavioral health crisis, to transition the pa-
30 tient to a lower level of care;

1 “(C) Treatment of co-occurring behavioral health conditions or medical
2 conditions in a coordinated manner;

3 “(D) Treatment at the least intensive and least restrictive level of care
4 that is safe and most effective and meets the needs of the insured’s condition;

5 “(E) A lower level or less intensive care only if it is comparably as safe
6 and effective as treatment at a higher level of service or intensity;

7 “(F) Treatment to maintain functioning or prevent deterioration;

8 “(G) Treatment for an appropriate duration based on the insured’s par-
9 ticular needs;

10 “(H) Treatment appropriate to the unique needs of children and adoles-
11 cents;

12 “(I) Treatment appropriate to the unique needs of older adults; and

13 “(J) Coordinated care and case management as defined by the Department
14 of Consumer and Business Services by rule.

15 “(d) The coverage of behavioral health treatment may not limit coverage
16 for treatment of pervasive or chronic behavioral health conditions to short-
17 term or acute behavioral health treatment at any level of care or placement.

18 “(e) A group health insurer or an issuer of an individual health benefit
19 plan other than a grandfathered health plan shall have a network of pro-
20 viders of behavioral health treatment sufficient to meet the standards de-
21 scribed in ORS 743B.505. If there is no in-network provider qualified to
22 timely deliver, as defined by rule, medically necessary behavioral treatment
23 to an insured in a geographic area, the group health insurer or issuer of an
24 individual health benefit plan shall provide coverage of out-of-network med-
25 ically necessary behavioral health treatment without any additional out-of-
26 pocket costs if provided by an available out-of-network provider that enters
27 into an agreement with the insurer to be reimbursed at in-network rates.

28 “(f) A provider is eligible for reimbursement under this section if:

29 “(A) The provider is approved or certified by the Oregon Health Author-
30 ity;

1 “(B) The provider is accredited for the particular level of care for which
2 reimbursement is being requested by the Joint Commission or the Commis-
3 sion on Accreditation of Rehabilitation Facilities;

4 “(C) The patient is staying overnight at the facility and is involved in a
5 structured program at least eight hours per day, five days per week; or

6 “(D) The provider is providing a covered benefit under the policy.

7 “(g) A group health insurer or an issuer of an individual health benefit
8 plan other than a grandfathered health plan must use the same methodology
9 to set reimbursement rates paid to behavioral health treatment providers
10 that the group health insurer or issuer of an individual health benefit plan
11 uses to set reimbursement rates for medical and surgical treatment providers.

12 “(h) A group health insurer or an issuer of an individual health benefit
13 plan other than a grandfathered health plan must update the methodology
14 and rates for reimbursing behavioral health treatment providers in a manner
15 equivalent to the manner in which the group health insurer or issuer of an
16 individual health benefit plan updates the methodology and rates for reim-
17 bursing medical and surgical treatment providers, unless otherwise required
18 by federal law.

19 “(i) A group health insurer or an issuer of an individual health benefit
20 plan other than a grandfathered health plan that reimburses out-of-network
21 providers for medical or surgical services must reimburse out-of-network be-
22 havioral health treatment providers on the same terms and at a rate that is
23 in parity with the rate paid to medical or surgical treatment providers.

24 “(j) Outpatient coverage of behavioral health treatment shall include
25 follow-up in-home service or outpatient services if clinically indicated under
26 criteria and guidelines described in subsection (5) of this section. The policy
27 may limit coverage for in-home service to persons who are homebound under
28 the care of a physician only if clinically indicated under criteria and guide-
29 lines described in subsection (5) of this section.

30 “(k)(A) Subject to **section 7 of this 2024 Act and to** the patient or client

1 confidentiality provisions of ORS 40.235 relating to physicians, ORS 40.240
2 relating to nurse practitioners, ORS 40.230 relating to psychologists, ORS
3 40.250 and 675.580 relating to licensed clinical social workers and ORS 40.262
4 relating to licensed professional counselors and licensed marriage and family
5 therapists, a group health insurer or issuer of an individual health benefit
6 plan may provide for review for level of treatment of admissions and con-
7 tinued stays for treatment in health facilities, residential facilities, day or
8 partial hospitalization programs and outpatient services by either staff of a
9 group health insurer or issuer of an individual health benefit plan or per-
10 sonnel under contract to the group health insurer or issuer of an individual
11 health benefit plan that is not a grandfathered health plan, or by a utiliza-
12 tion review contractor, who shall have the authority to certify for or deny
13 level of payment.

14 “(B) Review shall be made according to criteria made available to pro-
15 viders in advance upon request.

16 “(C) Review shall be performed by or under the direction of a physician
17 licensed under ORS 677.100 to 677.228, a psychologist licensed by the Oregon
18 Board of Psychology, a clinical social worker licensed by the State Board
19 of Licensed Social Workers or a professional counselor or marriage and
20 family therapist licensed by the Oregon Board of Licensed Professional
21 Counselors and Therapists, in accordance with standards of the National
22 Committee for Quality Assurance or Medicare review standards of the Cen-
23 ters for Medicare and Medicaid Services.

24 “(D) Review may involve prior [*approval*] **authorization**, concurrent re-
25 view of the continuation of treatment, post-treatment review or any combi-
26 nation of these. However, if prior [*approval*] **authorization** is required,
27 provision shall be made to allow for payment of urgent or emergency ad-
28 missions, subject to subsequent review. If prior [*approval*] **authorization** is
29 not required, group health insurers and issuers of individual health benefit
30 plans that are not grandfathered health plans shall permit providers,

1 policyholders or persons acting on their behalf to make advance inquiries
2 regarding the appropriateness of a particular admission to a treatment pro-
3 gram. Group health insurers and issuers of individual health benefit plans
4 that are not grandfathered health plans shall provide a timely response to
5 such inquiries. Noncontracting providers must cooperate with these proce-
6 dures to the same extent as contracting providers to be eligible for re-
7 imbursement.

8 “(L) Health maintenance organizations may limit the receipt of covered
9 services by enrollees to services provided by or upon referral by providers
10 contracting with the health maintenance organization. Health maintenance
11 organizations and health care service contractors may create substantive
12 plan benefit and reimbursement differentials at the same level as, and subject
13 to limitations no more restrictive than, those imposed on coverage or re-
14 imbursement of expenses arising out of other medical conditions and apply
15 them to contracting and noncontracting providers.

16 “(3) **Except as provided in section 7 of this 2024 Act**, this section does
17 not prohibit a group health insurer or issuer of an individual health benefit
18 plan that is not a grandfathered health plan from managing the provision
19 of benefits through common methods, including but not limited to selectively
20 contracted panels, health plan benefit differential designs, preadmission
21 screening, prior authorization of services, utilization review or other mech-
22 anisms designed to limit eligible expenses to those described in subsection
23 (2)(b) of this section provided such methods comply with the requirements
24 of this section.

25 “(4) The Legislative Assembly finds that health care cost containment is
26 necessary and intends to encourage health insurance plans designed to
27 achieve cost containment by ensuring that reimbursement is limited to ap-
28 propriate utilization under criteria incorporated into the insurance, either
29 directly or by reference, in accordance with this section.

30 “(5)(a) Any medical necessity, utilization or other clinical review con-

1 ducted for the diagnosis, prevention or treatment of behavioral health con-
2 ditions or relating to service intensity, level of care placement, continued
3 stay or discharge must be based solely on the following:

4 “(A) The current generally accepted standards of care.

5 “(B) For level of care placement decisions, the most recent version of the
6 levels of care placement criteria developed by the nonprofit professional as-
7 sociation for the relevant clinical specialty.

8 “(C) For medical necessity, utilization or other clinical review conducted
9 for the diagnosis, prevention or treatment of behavioral health conditions
10 that does not involve level of care placement decisions, other criteria and
11 guidelines may be utilized if such criteria and guidelines are based on the
12 current generally accepted standards of care including valid, evidence-based
13 sources and current treatment criteria or practice guidelines developed by
14 the nonprofit professional association for the relevant clinical specialty.
15 Such other criteria and guidelines must be made publicly available and made
16 available to insureds upon request to the extent permitted by copyright laws.

17 “(b) This subsection does not prevent a group health insurer or an issuer
18 of an individual health benefit plan other than a grandfathered health plan
19 from using criteria that:

20 “(A) Are outside the scope of criteria and guidelines described in para-
21 graph (a)(B) of this subsection, if the guidelines were developed in accord-
22 ance with the current generally accepted standards of care; or

23 “(B) Are based on advancements in technology of types of care that are
24 not addressed in the most recent versions of sources specified in paragraph
25 (a)(B) of this subsection, if the guidelines were developed in accordance with
26 current generally accepted standards of care.

27 “(c) For all level of care placement decisions, an insurer shall authorize
28 placement at the level of care consistent with the insured’s score or assess-
29 ment using the relevant level of care placement criteria and guidelines as
30 specified in paragraph (a)(B) of this subsection. If the level of care indicated

1 by the criteria and guidelines is not available, the insurer shall authorize the
2 next higher level of care. If there is disagreement about the appropriate level
3 of care, the insurer shall provide to the provider of the service the full de-
4 tails of the insurer's scoring or assessment using the relevant level of care
5 placement criteria and guidelines specified in paragraph (a)(B) of this sub-
6 section.

7 “(6) To ensure the proper use of any criteria and guidelines described in
8 subsection (5) of this section, a group health insurer or an issuer of an in-
9 dividual health benefit plan shall provide, at no cost:

10 “(a) A formal education program, presented by nonprofit clinical specialty
11 associations or other entities authorized by the department, to educate the
12 insurer's or the issuer's staff and any individuals described in subsection
13 (2)(k) of this section who conduct reviews.

14 “(b) To stakeholders, including participating providers and insureds, the
15 criteria and guidelines described in subsection (5) of this section and any
16 education or training materials or resources regarding the criteria and
17 guidelines.

18 “(7) This section does not prevent a group health insurer or issuer of an
19 individual health benefit plan that is not a grandfathered health plan from
20 contracting with providers of health care services to furnish services to
21 policyholders or certificate holders according to ORS 743B.460 or 750.005,
22 subject to the following conditions:

23 “(a) A group health insurer or issuer of an individual health benefit plan
24 that is not a grandfathered health plan is not required to contract with all
25 providers that are eligible for reimbursement under this section.

26 “(b) An insurer or health care service contractor shall, subject to sub-
27 section (2) of this section, pay benefits toward the covered charges of non-
28 contracting providers of services for behavioral health treatment. The
29 insured shall, subject to subsection (2) of this section, have the right to use
30 the services of a noncontracting provider of behavioral health treatment,

1 whether or not the behavioral health treatment is provided by contracting
2 or noncontracting providers.

3 “(8)(a) This section does not require coverage for:

4 “(A) Educational or correctional services or sheltered living provided by
5 a school or halfway house;

6 “(B) A long-term residential mental health program that lasts longer than
7 45 days unless clinically indicated under criteria and guidelines described in
8 subsection (5) of this section;

9 “(C) Psychoanalysis or psychotherapy received as part of an educational
10 or training program, regardless of diagnosis or symptoms that may be pres-
11 ent;

12 “(D) A court-ordered sex offender treatment program; or

13 “(E) Support groups.

14 “(b) Notwithstanding paragraph (a)(A) of this subsection, an insured may
15 receive covered outpatient services under the terms of the insured’s policy
16 while the insured is living temporarily in a sheltered living situation.

17 “(9) The Oregon Health Authority shall establish a process for the certi-
18 fication of an organization described in subsection (1)(j)(F) of this section
19 that:

20 “(a) Is not otherwise subject to licensing or certification by the authority;
21 and

22 “(b) Does not contract with the authority, a subcontractor of the author-
23 ity or a community mental health program.

24 “(10) The Oregon Health Authority shall adopt by rule standards for the
25 certification provided under subsection (9) of this section to ensure that a
26 certified provider organization offers a distinct and specialized program for
27 the treatment of mental or nervous conditions.

28 “(11) The Oregon Health Authority may adopt by rule an application fee
29 or a certification fee, or both, to be imposed on any provider organization
30 that applies for certification under subsection (9) of this section. Any fees

1 collected shall be paid into the Oregon Health Authority Fund established
2 in ORS 413.101 and shall be used only for carrying out the provisions of
3 subsection (9) of this section.

4 “(12) The intent of the Legislative Assembly in adopting this section is
5 to reserve benefits for different types of care to encourage cost effective care
6 and to ensure continuing access to levels of care most appropriate for the
7 insured’s condition and progress in accordance with this section. This section
8 does not prohibit an insurer from requiring a provider organization certified
9 by the Oregon Health Authority under subsection (9) of this section to meet
10 the insurer’s credentialing requirements as a condition of entering into a
11 contract.

12 “(13) The Director of the Department of Consumer and Business Services
13 and the Oregon Health Authority, after notice and hearing, may adopt rea-
14 sonable rules not inconsistent with this section that are considered necessary
15 for the proper administration of this section. The director shall adopt rules
16 making it a violation of this section for a group health insurer or issuer of
17 an individual health benefit plan other than a grandfathered health plan to
18 require providers to bill using a specific billing code or to restrict the re-
19 imbursement paid for particular billing codes other than on the basis of
20 medical necessity.

21 “(14) This section does not:

22 “(a) Prohibit an insured from receiving behavioral health treatment from
23 an out-of-network provider or prevent an out-of-network behavioral health
24 provider from billing the insured for any unreimbursed cost of treatment.

25 “(b) Prohibit the use of value-based payment methods, including global
26 budgets or capitated, bundled, risk-based or other value-based payment
27 methods.

28 “(c) Require that any value-based payment method reimburse behavioral
29 health services based on an equivalent fee-for-service rate.

30 **“SECTION 9.** ORS 414.766 is amended to read:

1 “414.766. (1) Notwithstanding ORS 414.065 and 414.690, a coordinated care
2 organization must provide behavioral health services to its members that
3 include but are not limited to all of the following:

4 “(a) For a member who is experiencing a behavioral health crisis:

5 “(A) A behavioral health assessment; and

6 “(B) Services that are medically necessary to transition the member to a
7 lower level of care;

8 “(b) At least the minimum level of services that are medically necessary
9 to treat a member’s underlying behavioral health condition rather than a
10 mere amelioration of current symptoms, such as suicidal ideation or
11 psychosis, as determined in a behavioral health assessment of the member
12 or specified in the member’s care plan;

13 “(c) Treatment of co-occurring behavioral health disorders or medical
14 conditions in a coordinated manner;

15 “(d) Treatment at the least intensive and least restrictive level of care
16 that is safe and effective and meets the needs of the individual’s condition;

17 “(e) For all level of care placement decisions, placement at the level of
18 care consistent with a member’s score or assessment using the relevant level
19 of care placement criteria and guidelines;

20 “(f) If the level of placement described in paragraph (e) of this subsection
21 is not available, placement at the next higher level of care;

22 “(g) Treatment to maintain functioning or prevent deterioration;

23 “(h) Treatment for an appropriate duration based on the individual’s
24 particular needs;

25 “(i) Treatment appropriate to the unique needs of children and adoles-
26 cents;

27 “(j) Treatment appropriate to the unique needs of older adults;

28 “(k) Treatment that is culturally and linguistically appropriate;

29 “(L) Treatment that is appropriate to the unique needs of gay, lesbian,
30 bisexual and transgender individuals and individuals of any other minority

1 gender identity or sexual orientation;

2 “(m) Coordinated care and case management as defined by the Department
3 of Consumer and Business Services by rule; *and*]

4 “(n) Mental health wellness appointments as prescribed by the Oregon
5 Health Authority by rule; **and**

6 **“(o) Refills of medications prescribed for the treatment of opioid
7 use disorder and any co-occurring substance use disorder or mental
8 health condition.**

9 “(2) If there is a disagreement about the level of care required by sub-
10 section (1)(e) or (f) of this section, a coordinated care organization shall
11 provide to the behavioral health treatment provider full details of the coor-
12 dinated care organization’s scoring or assessment, to the extent permitted
13 by the federal Health Insurance Portability and Accountability Act privacy
14 regulations, 45 C.F.R. parts 160 and 164, ORS 192.553 to 192.581 or other state
15 or federal laws limiting the disclosure of health information.

16 “(3) The Oregon Health Authority shall adopt by rule a list of behavioral
17 health services that may not be subject to prior authorization.

18 **“SECTION 10.** ORS 431A.463 is amended to read:

19 **“431A.463. (1) As used in this section, ‘medication-assisted
20 treatment’ means any medication and the dispensing or administering
21 of the medication that is approved by the United States Food and Drug
22 Administration for the treatment of substance use disorders, including
23 opioid and opiate addiction.**

24 **“[(1)] (2)** The Oregon Health Authority shall prohibit coordinated care
25 organizations and public payers of health insurance, when reimbursing the
26 cost of medication-assisted treatment for treating substance use disorders,
27 including opioid and opiate addiction, from requiring prior authorization [*of*
28 *payment during the first 30 days of medication-assisted treatment*].

29 **“[(2)] (3)** The authority may adopt rules to carry out this section.

30

1 cludes addiction specialists, emergency department physicians and
2 primary care providers.

3 **“SECTION 13. (1) As used in this section, ‘prescription drug**
4 **locker’ means a mechanical device that serves as an extension of a**
5 **retail drug outlet’s will call or point of sale area in which completed**
6 **patient-specific prescription drugs, devices and related supplies and**
7 **nonprescription drugs, devices and related supplies are stored for pick**
8 **up.**

9 **“(2) A prescription drug locker located within this state and at the**
10 **same physical address as the retail drug outlet with which the pre-**
11 **scription drug locker is associated:**

12 **“(a) Is considered part of the retail drug outlet and is not required**
13 **to obtain a license or registration from the State Board of Pharmacy;**
14 **and**

15 **“(b) Is not required to obtain a registration from the Drug**
16 **Enforcement Administration of the United States Department of Jus-**
17 **tice.**

18 **“(3) A prescription drug locker located within this state but at a**
19 **physical address other than the physical address of the retail drug**
20 **outlet with which the prescription drug locker is associated is consid-**
21 **ered a remote dispensing area and must obtain a registration from the**
22 **Drug Enforcement Administration in order to dispense controlled**
23 **substances.**

24 **“(4) The board may adopt rules to carry out this section.**

25

26 **“(Discrimination against individuals with substance use**
27 **disorders prohibited in group recovery homes)**

28

29 **“SECTION 14. ORS 90.440 is amended to read:**

30 **“90.440. (1) As used in this section:**

1 “(a) ‘Group recovery home’ means a place that provides occupants with
2 shared living facilities and that meets the description of a group home under
3 42 U.S.C. 300x-25.

4 “(b) ‘Illegal drugs’ includes controlled substances or prescription drugs:

5 “(A) For which the tenant does not have a valid prescription; or

6 “(B) That are used by the tenant in a manner contrary to the prescribed
7 regimen.

8 “(c) ‘Marijuana item’ has the meaning given that term in ORS 475C.009.

9 “(d) ‘Peace officer’ means:

10 “(A) A sheriff, constable, marshal or deputy;

11 “(B) A member of a state or city police force;

12 “(C) A police officer commissioned by a university under ORS 352.121 or
13 353.125; or

14 “(D) An authorized tribal police officer as defined in ORS 181A.940.

15 “(2)(a) Notwithstanding ORS 90.375 and 90.435, a group recovery home
16 may terminate a tenancy and peaceably remove a tenant without complying
17 with ORS 105.100 to 105.168 if the tenant has used or possessed alcohol, a
18 marijuana item or illegal drugs within the preceding seven days.

19 “(b) For purposes of this subsection, the following are sufficient proof
20 that a tenant has used or possessed alcohol, a marijuana item or illegal
21 drugs:

22 “(A) The tenant [*fails a test*] **tests positive** for alcohol, cannabis or ille-
23 gal [*drug use*] **drugs on a preliminary test and a confirmatory test;**

24 “(B) The tenant refuses a request made in good faith by the group re-
25 covery home that the tenant take a test for alcohol, cannabis or illegal drug
26 use; or

27 “(C) Any person has personally observed the tenant using or possessing
28 alcohol, a marijuana item or illegal drugs.

29 “(3) A group recovery home that undertakes the removal of a tenant un-
30 der this section shall personally deliver to the tenant a written notice that:

1 “(a) Describes why the tenant is being removed;

2 “(b) Describes the proof that the tenant has used or possessed alcohol, a
3 marijuana item or illegal drugs within the seven days preceding delivery of
4 the notice;

5 “(c) Specifies the date and time by which the tenant must move out of the
6 group recovery home;

7 “(d) Explains that if the removal was wrongful or in bad faith the tenant
8 may seek injunctive relief to recover possession under ORS 105.121 and may
9 bring an action to recover monetary damages; and

10 “(e) Gives contact information for the local legal services office and for
11 the Oregon State Bar’s Lawyer Referral Service, identifying those services
12 as possible sources for free or reduced-cost legal services.

13 “(4) A written notice in substantially the following form meets the re-
14 quirements of subsection (3) of this section:

15 “ _____

16 This notice is to inform you that you must move out of _____ (insert
17 address of group recovery home) by _____ (insert date and time that is
18 not less than 24 hours after delivery of notice).

19 The reason for this notice is _____ (specify use or possession of al-
20cohol, marijuana or illegal drugs, as applicable, and dates of occurrence).

21 The proof of your use or possession is _____ (specify facts).

22 If you did not use or possess alcohol, marijuana or illegal drugs within
23 the seven days before delivery of this notice, if this notice was given in bad
24 faith or if your group recovery home has not substantially complied with
25 ORS 90.440, you may be able to get a court to order the group recovery home
26 to let you move back in. You may also be able to recover monetary damages.

27 You may be eligible for free legal services at your local legal services
28 office _____ (insert telephone number) or reduced fee legal services
29 through the Oregon State Bar at 1-800-452-7636.

30 “ _____

1 “(5) Within the notice period, a group recovery home shall allow a tenant
2 removed under this section to follow any emergency departure plan that was
3 prepared by the tenant and approved by the group recovery home at the time
4 the tenancy began. If the removed tenant does not have an emergency de-
5 parture plan, a representative of the group recovery home shall offer to take
6 the removed tenant to a public shelter, detoxification center or similar lo-
7 cation if existing in the community.

8 “(6) The date and time for moving out specified in a notice under sub-
9 section (3) of this section must be at least 24 hours after the date and time
10 the notice is delivered to the tenant. If the tenant remains on the group re-
11 covery home premises after the date and time for moving out specified in the
12 notice, the tenant is a person remaining unlawfully in a dwelling as de-
13 scribed in ORS 164.255 and not a person described in ORS 105.115. Only a
14 peace officer may forcibly remove a tenant who remains on the group re-
15 covery home premises after the date and time specified for moving out.

16 “(7) A group recovery home that removes a tenant under this section shall
17 send a copy of the notice described in subsection (3) of this section to the
18 Oregon Health Authority no later than 72 hours after delivering the notice
19 to the tenant.

20 “(8) A tenant who is removed under subsection (2) of this section may
21 obtain injunctive relief to recover possession and may recover an amount
22 equal to the greater of actual damages or three times the tenant’s monthly
23 rent if:

24 “(a) The group recovery home removed the tenant in bad faith or without
25 substantially complying with this section; or

26 “(b) If removal is under subsection (2)(b)(C) of this section, the removal
27 was wrongful because the tenant did not use or possess alcohol, a marijuana
28 item or illegal drugs.

29 “(9) Notwithstanding ORS 12.125, a tenant who seeks to obtain injunctive
30 relief to recover possession under ORS 105.121 must commence the action to

1 seek relief not more than 90 days after the date specified in the notice for
2 the tenant to move out.

3 “(10) In any court action regarding the removal of a tenant under this
4 section, a group recovery home may present evidence that the tenant used
5 or possessed alcohol, a marijuana item or illegal drugs within seven days
6 preceding the removal, whether or not the evidence was described in the
7 notice required by subsection (3) of this section.

8 “(11) This section does not prevent a group recovery home from termi-
9 nating a tenancy as provided by any other provision of this chapter and
10 evicting a tenant as provided in ORS 105.100 to 105.168.

11 “(12) **Nothing in this section allows a group recovery home to dis-**
12 **criminate against a tenant based on the tenant’s involvement in**
13 **medication-assisted treatment as defined in ORS 431A.463.**

14

15 “(Access to addiction treatment
16 by members of coordinated care organizations)

17

18 “**SECTION 15.** ORS 414.609 is amended to read:

19 “414.609. (1) A coordinated care organization that contracts with the
20 Oregon Health Authority must maintain a network of providers, **including**
21 **but not limited to addiction treatment providers**, sufficient in numbers
22 and areas of practice and geographically distributed in a manner to ensure
23 that the health services provided under the contract are reasonably accessi-
24 ble to members.

25 “(2) A member may transfer from one organization to another organiza-
26 tion no more than once during each enrollment period.

27

28 “(Involuntary Admission of Minor to
29 Treatment by Parent)

30

1 **“SECTION 16. (1) As used in this section:**

2 **“(a) ‘Minor’ means an unemancipated individual who has not at-**
3 **tained the age of majority, as described in ORS 109.510.**

4 **“(b) ‘Treatment facility’ has the meaning given that term in ORS**
5 **430.306.**

6 **“(2) When the director of a treatment facility receives an applica-**
7 **tion under ORS 430.397 from the parent of a minor for the voluntary**
8 **admission of the minor for inpatient diagnosis, evaluation and treat-**
9 **ment of a substance use disorder and the minor objects to the admis-**
10 **sion, the director may admit the minor only if, in the opinion of the**
11 **director of the treatment facility:**

12 **“(a) The minor has a substance use disorder and:**

13 **“(A) The minor has lost the ability to control the minor’s personal**
14 **use of a controlled substance or another substance with abuse poten-**
15 **tial; or**

16 **“(B) The minor’s use is to the extent that the health of the minor**
17 **is substantially impaired or endangered or the social or economic**
18 **functioning of the minor is substantially disrupted;**

19 **“(b) There is no less restrictive alternative available for the minor’s**
20 **treatment;**

21 **“(c) There is reason to believe that the minor’s substance use dis-**
22 **order could be improved by the recommended course of treatment or**
23 **would deteriorate further if left untreated; and**

24 **“(d) The minor’s condition or circumstances meet any other criteria**
25 **for admission established by the Oregon Health Authority by rule.**

26 **“(3) A minor admitted to a treatment facility under this section**
27 **shall be discharged from the treatment facility:**

28 **“(a) No later than 72 hours after the facility receives notice, in**
29 **writing, from the minor’s parent requesting the discharge; or**

30 **“(b) If the director of the treatment facility determines that the**

1 **minor will no longer benefit from continued treatment and the minor**
2 **is not dangerous to self or others. Before discharging the minor under**
3 **this paragraph, the treatment facility shall give notice, in writing, of**
4 **the pending discharge to the child’s parent.**

5 **“(4) To the extent permitted under federal law, the treatment fa-**
6 **cility may disclose information regarding the minor’s evaluation, di-**
7 **agnosis and treatment, or need for treatment, to the minor’s parent,**
8 **without the consent of the minor. The treatment facility shall en-**
9 **courage the minor to sign an authorization for the disclosure of in-**
10 **formation that is necessary for the parent to participate in the minor’s**
11 **discharge planning and to provide appropriate support to the minor**
12 **following discharge.**

13 **“(5) This section does not apply to:**

14 **“(a) The voluntary admission of a minor to a state hospital under**
15 **ORS 426.220; or**

16 **“(b) The placement of a child or ward in a congregate care resi-**
17 **dential setting by the Department of Human Services under ORS**
18 **418.322.**

19 **“(6) The authority shall adopt rules for the implementation of this**
20 **section. The rules must prioritize the best interests of the minor and**
21 **take into consideration any applicable due process rights of the minor,**
22 **the rights and duties of the minor’s parent to safeguard the mental**
23 **and physical well-being of the minor and the state’s interest in pro-**
24 **viding treatment and recovery services and supports for minors expe-**
25 **riencing substance use disorders.**

26 **“SECTION 17. ORS 430.397 is amended to read:**

27 **“430.397. (1) Any person may voluntarily apply for admission to any**
28 **treatment facility operated pursuant to rules of the Oregon Health Author-**
29 **ity.**

30 **“(2) The director of the treatment facility shall determine whether the**

1 person shall be admitted as a patient, or referred to another appropriate
2 treatment facility or denied referral or admission.

3 “(3) If the person is under 18 years of age or an incompetent, the director
4 of the treatment facility shall notify the person’s parents or guardian of the
5 admission or referral.

6 “(4) **An application for admission of a minor to a treatment facility**
7 **made by the minor’s parent is subject to the provisions of section 16**
8 **of this 2024 Act.**

9 “**SECTION 18.** ORS 109.675 is amended to read:

10 “109.675. (1) A minor 14 years of age or older may obtain, without par-
11 ental knowledge or consent:

12 “(a) Outpatient diagnosis or treatment of a mental or emotional disorder
13 or a chemical dependency, excluding methadone maintenance, by a physician
14 or physician assistant licensed by the Oregon Medical Board, a psychologist
15 licensed by the Oregon Board of Psychology, a nurse practitioner registered
16 by the Oregon State Board of Nursing, a clinical social worker licensed by
17 the State Board of Licensed Social Workers, a professional counselor or
18 marriage and family therapist licensed by the Oregon Board of Licensed
19 Professional Counselors and Therapists, a naturopathic physician licensed
20 by the Oregon Board of Naturopathic Medicine or a community mental
21 health program established and operated pursuant to ORS 430.620 when ap-
22 proved to do so by the Oregon Health Authority pursuant to rule.

23 “(b) Outpatient applied behavior analysis, as defined in ORS 676.802, as
24 a treatment of a mental or emotional disorder or a chemical dependency,
25 excluding methadone maintenance, by a behavior analyst or assistant be-
26 havior analyst licensed under ORS 676.810 or a behavior analysis
27 interventionist registered by the Health Licensing Office under ORS 676.815
28 if the treatment is within the scope of practice of the behavior analyst, as-
29 sistant behavior analyst or behavior analysis interventionist.

30 “(2) However, the person providing treatment shall have the parents of

1 the minor involved before the end of treatment unless the parents refuse or
2 unless there are clear clinical indications to the contrary, which shall be
3 documented in the treatment record. The provisions of this subsection do not
4 apply to:

5 “(a) A minor who has been sexually abused by a parent; or

6 “(b) An emancipated minor, whether emancipated under the provisions of
7 ORS 109.510 and 109.520 or 419B.550 to 419B.558 or, for the purpose of this
8 section only, emancipated by virtue of having lived apart from the parents
9 or legal guardian while being self-sustaining for a period of 90 days prior to
10 obtaining treatment as provided by this section.

11 **“(3) Nothing in this section limits the right of a parent to consent**
12 **to chemical dependency treatment on behalf of the parent’s minor**
13 **child when the child objects to the treatment or does not otherwise**
14 **consent to the treatment.**

15 **“SECTION 19.** ORS 109.680 is amended to read:

16 “109.680. (1) As used in this section, ‘mental health care provider’ means
17 a physician or physician assistant licensed by the Oregon Medical Board,
18 psychologist licensed by the Oregon Board of Psychology, nurse practitioner
19 registered by the Oregon State Board of Nursing, clinical social worker li-
20 censed under ORS 675.530, professional counselor or marriage and family
21 therapist licensed by the Oregon Board of Licensed Professional Counselors
22 and Therapists, naturopathic physician licensed under ORS chapter 685 or
23 community mental health program established and operated pursuant to ORS
24 430.620 when approved to do so by the Oregon Health Authority pursuant to
25 rule.

26 “(2)(a) A mental health care provider that is providing services to a minor
27 pursuant to ORS 109.675 (1) may disclose relevant health information about
28 the minor without the minor’s consent as provided in ORS 109.675 (2) and
29 this subsection.

30 “(b) If the minor’s condition has deteriorated or the risk of a suicide at-

1 tempt has become such that inpatient treatment is necessary, or if the
2 minor's condition requires detoxification in a residential or acute care fa-
3 cility, the minor's mental health care provider may disclose the relevant in-
4 formation regarding the minor's diagnosis and treatment to the minor's
5 parent or legal guardian to the extent the mental health care provider de-
6 termines the disclosure is clinically appropriate and will serve the best in-
7 terests of the minor's treatment.

8 “(c) If the mental health care provider assesses the minor to be at serious
9 and imminent risk of a suicide attempt but inpatient treatment is not nec-
10 essary or practicable:

11 “(A) The mental health care provider shall disclose relevant information
12 about the minor to and engage in safety planning with the minor's parent,
13 legal guardian or other individuals the provider reasonably believes may be
14 able to prevent or lessen the minor's risk of a suicide attempt.

15 “(B) The mental health care provider may disclose relevant information
16 regarding the minor's treatment and diagnosis that the mental health care
17 provider determines is necessary to further the minor's treatment to those
18 organizations, including appropriate schools and social service entities, that
19 the mental health care provider reasonably believes will provide treatment
20 support to the minor to the extent the mental health care provider deter-
21 mines necessary.

22 “(d) Except as provided in ORS 109.675 (2) and paragraphs (a) and (b) of
23 this subsection, if a mental health care provider has provided the minor with
24 the opportunity to object to the disclosure and the minor has not expressed
25 an objection, the mental health care provider may disclose information re-
26 lated to the minor's treatment and diagnosis to individuals, including the
27 minor's parent or legal guardian, and organizations when the information
28 directly relates to the individual's or organization's involvement in the
29 minor's treatment.

30 “(3) Notwithstanding subsection (2)(c)(A) of this section, a mental health

1 care provider is not required to disclose **to an individual** the [*minor's*]
2 treatment and diagnosis information **of a minor the mental health care**
3 **provider is providing services to pursuant to ORS 109.675 (1)** [*to an in-*
4 *dividual*] if the mental health care provider:

5 “(a) Reasonably believes the individual has abused or neglected the minor
6 or subjected the minor to domestic violence or may abuse or neglect the
7 minor or subject the minor to domestic violence;

8 “(b) Reasonably believes disclosure of the minor’s information to the in-
9 dividual could endanger the minor; or

10 “(c) Determines that it is not in the minor’s best interest to disclose the
11 information to the individual.

12 “(4) Nothing in this section is intended to limit a mental health care
13 provider’s authority to disclose information related to the minor:

14 “(a) With the minor’s consent[.]; or

15 “(b) **Without the minor’s consent, if:**

16 “(A) **The information is related to the minor’s chemical depend-**
17 **ency;**

18 “(B) **The disclosure is to the minor’s parent;**

19 “(C) **The parent consented to the minor’s chemical dependency**
20 **treatment on the minor’s behalf; and**

21 “(D) **The minor objected to the treatment or did not otherwise**
22 **consent to the treatment.**

23 “(5) If a mental health care provider discloses a minor’s information as
24 provided in subsection (2) of this section in good faith, the mental health
25 care provider is immune from civil liability for making the disclosure with-
26 out the consent of the minor.

27 “**SECTION 20. Section 16 of this 2024 Act and the amendments to**
28 **ORS 109.675, 109.680 and 430.397 by sections 17 to 19 of this 2024 Act**
29 **apply to treatment provided or admission for treatment occurring, and**
30 **information and records related to such treatment or admission, on**

1 or after the effective date of this 2024 Act.

2
3 “(Alcohol and Drug Policy Commission study)

4
5 **“SECTION 21. (1) The Alcohol and Drug Policy Commission created**
6 **under ORS 430.221 shall conduct a study of:**

7 **“(a) Barriers to and best practices for:**

8 **“(A) Youth accessing substance use disorder treatment;**

9 **“(B) Increasing access to medication-assisted treatment, including:**

10 **“(i) Medication-assisted treatment interventions and prescribing of**
11 **medication-assisted treatment in emergency departments; and**

12 **“(ii) Increasing the number of providers of medication-assisted**
13 **treatment; and**

14 **“(C) Increasing the number of substance use disorder providers**
15 **statewide; and**

16 **“(b) Data regarding insurance claim denials, including retroactive**
17 **denials, of reimbursement for substance use disorder medications.**

18 **“(2) In studying the barriers to and best practices for youth ac-**
19 **cessing substance use disorder treatment under subsection (1)(a)(A)**
20 **of this section, the commission shall collaborate with participating**
21 **state agencies, as defined in ORS 430.221, and the System of Care Ad-**
22 **visory Council established in ORS 418.978.**

23 **“(3) No later than September 31, 2024, the commission shall provide**
24 **to the interim committees of the Legislative Assembly related to**
25 **health a report on the status of the study and any preliminary rec-**
26 **ommendations that the commission has developed.**

27 **“(4) No later than September 15, 2025, the commission shall report**
28 **to the interim committees of the Legislative Assembly related to be-**
29 **havioral health, in the manner provided in ORS 192.245:**

30 **“(a) A strategic plan to improve the access of youth to substance**

1 use disorder treatment;

2 “(b) A strategic plan that includes evidence-based and evidence-
3 informed strategies for increasing the number of substance use disorder
4 treatment providers statewide and expanding the capacity of the
5 substance use disorder treatment system in this state;

6 “(c) Recommendations for reducing the barriers to accessing sub-
7 stance use disorder treatment including barriers to the provision of
8 medication-assisted treatment interventions in emergency depart-
9 ments; and

10 “(d) Needed changes to address obstacles encountered by behavioral
11 health providers when seeking health insurance reimbursement for
12 substance use disorder medications including but not limited to:

13 “(A) Requiring providers to use specialty pharmacies instead of
14 purchasing medications directly from vendors and billing the insurers;

15 “(B) Limiting the coverage of medication-assisted treatment to
16 specific forms such as sublingual or injections; and

17 “(C) Imposing limits on the amount of a substance use disorder
18 medication that may be dispensed during a single visit.

19

20 “(Certified community behavioral health clinic program)

21

22 “SECTION 22. Section 23 of this 2024 Act is added to and made a
23 part of ORS chapter 413.

24 “SECTION 23. (1) The certified community behavioral health clinic
25 program is established in the Oregon Health Authority for the purpose
26 of certifying community behavioral health clinics that meet criteria
27 adopted by the authority by rule to receive prospective fixed cost-based
28 rates, as provided in subsection (4) of this section, for services pro-
29 vided to medical assistance enrollees.

30 “(2) Rules adopted by the authority:

1 “(a) Must be consistent with the criteria adopted by the United
2 States Department of Health and Human Services for certified com-
3 munity behavioral health clinics; and

4 “(b) Shall ensure that certified community behavioral health clinics
5 provide all of the services required by the criteria adopted by the
6 United States Department of Health and Human Services for certified
7 community behavioral health clinics.

8 “(3) If the authority adopts requirements for certified community
9 behavioral health clinics that are in addition to the criteria described
10 in subsection (2)(a) of this section, the authority shall:

11 “(a) Provide funding to the clinics sufficient to reimburse the costs
12 of the additional requirements; or

13 “(b) Have a process for granting exceptions to one or more of the
14 requirements.

15 “(4)(a) A certified community behavioral health clinic shall com-
16 plete the federally required cost report for the authority to review and
17 approve the clinic’s prospective fixed cost-based rate for a patient en-
18 counter.

19 “(b) The authority shall regularly adjust the prospective fixed
20 cost-based rate at intervals consistent with federal guidance. A certi-
21 fied community behavioral health clinic may request a rate adjust-
22 ment if a clinic changes the clinic’s scope of services.

23 “(c) The authority shall adopt and provide to certified community
24 behavioral health clinics guidance on the development of fixed rates
25 and billing. The fixed rate must include but is not limited to:

26 “(A) An estimate of the projected cost of anticipated expansions of
27 the certified community behavioral health clinic program or the pop-
28 ulations served by the program; and

29 “(B) The cost of the technology and data systems needed by each
30 clinic to track and measure outcomes and other data that the au-

1 **thority requires to be tracked or measured.**

2 **“(d) The authority shall review federal guidance on rate setting for**
3 **clinics that are dually certified as federally qualified health centers,**
4 **as defined in 42 U.S.C. 1396d(l)(2), and as certified community behav-**
5 **ioral health clinics and provide recommendations to such dually cer-**
6 **tified clinics about how the clinics can best bill for services.**

7 **“(5) In any geographic region of this state that is served by both a**
8 **certified community behavioral health clinic and a community mental**
9 **health program:**

10 **“(a) Before the authority may approve the certification of a certi-**
11 **fied community behavioral health clinic, the certified community be-**
12 **havioral health clinic and the community mental health program shall**
13 **enter into a written agreement concerning collaboration between the**
14 **clinic and the program in the coordination of services that are pro-**
15 **vided by both the clinic and the program.**

16 **“(b) The authority shall develop a plan to ensure:**

17 **“(A) Coordination of services between the clinic and the program**
18 **to minimize service redundancies; and**

19 **“(B) Financial efficiencies to maximize financial benefits.**

20 **“(6) This section does not require a clinic that is eligible for certi-**
21 **fication under this section to apply for certification. Participation in**
22 **the certified community behavioral health clinic program is voluntary.**

23 **“SECTION 24. (1) Prior to January 15, 2025, the Oregon Health Au-**
24 **thority shall submit a plan to the Centers for Medicare and Medicaid**
25 **Services to add new certified community behavioral health clinics to**
26 **achieve statewide access to the clinics. The plan may include expand-**
27 **ing existing areas served by the clinics. In selecting new clinics, the**
28 **authority shall consider all organizations that meet the criteria for a**
29 **clinic, regardless of provider type.**

30 **“(2) No later than September 15, 2025, the authority shall seek fed-**

1 eral approval for an amendment to the Medicaid state plan to allow
2 the state to receive federal financial participation in the costs of the
3 certified community behavioral health clinic program established in
4 section 23 of this 2024 Act on and after the date specified in subsection
5 (1) of this section.

6 “(3) The authority shall explore all prospective rate methodologies
7 allowed for the certified community behavioral health clinic model by
8 the Centers for Medicare and Medicaid Services.

9
10 “(Joint Task Force on Regional Behavioral Health Accountability)

11
12 **“SECTION 25. (1) The Joint Task Force on Regional Behavioral**
13 **Health Accountability is established to make recommendations to the**
14 **Legislative Assembly to improve the governance of behavioral health**
15 **systems and strengthen evidence-based funding decisions and ac-**
16 **countability of behavioral health systems.**

17 “(2) The task force consists of 19 members appointed as follows:

18 “(a) The President of the Senate shall appoint one member from
19 among members of the Senate.

20 “(b) The Speaker of the House of Representatives shall appoint one
21 member from among members of the House of Representatives.

22 “(c) The Governor shall appoint 17 members as follows:

23 “(A) One member representing the Oregon Health Authority;

24 “(B) One member representing the Alcohol and Drug Policy Com-
25 mission;

26 “(C) One member representing the Department of Human Services;

27 “(D) One member representing coordinated care organizations;

28 “(E) One member representing the Oregon State Hospital;

29 “(F) One member representing Oregon counties;

30 “(G) One member representing Oregon cities;

1 **“(H) One member representing county mental health providers;**
2 **“(I) One member from a large labor organization representing be-**
3 **havioral health workers;**
4 **“(J) One member from a trade association representing private and**
5 **nonprofit behavioral health providers;**
6 **“(K) One member from a nonprofit substance use disorder treat-**
7 **ment provider;**
8 **“(L) One member from a large labor organization representing**
9 **nurses;**
10 **“(M) One member from a professional organization representing**
11 **doctors;**
12 **“(N) One member from a business coalition representing the hos-**
13 **pital industry;**
14 **“(O) One member from a business coalition representing the insur-**
15 **ance industry;**
16 **“(P) One member from a business coalition representing**
17 **pharmacists; and**
18 **“(Q) One member representing the Governor.**
19 **“(3) The task force shall develop recommendations to:**
20 **“(a) Improve collaboration and accountability across federal, state**
21 **and local behavioral health and substance use disorder treatment**
22 **programs and funding;**
23 **“(b) Improve outcomes in publicly supported treatment settings**
24 **across Oregon communities; and**
25 **“(c) Provide greater cost efficiencies in Oregon’s behavioral health**
26 **system continuum of care.**
27 **“(4) Recommendations developed under subsection (3) of this sec-**
28 **tion should include:**
29 **“(a) Any statutory changes needed to ensure that federal, state and**
30 **local funds are being spent to maximize outcomes and resource effi-**

1 **ciency;**

2 **“(b) Policy changes recommended based on a comparative analysis**
3 **of policies in other states that spend less on treatment but demon-**
4 **strate better behavioral health and substance use disorder treatment**
5 **outcomes; and**

6 **“(c) Any governance changes that would facilitate greater align-**
7 **ment of spending decisions between federal, state and local behavioral**
8 **health and substance use disorder treatment programs.**

9 **“(5) A majority of the voting members of the task force constitutes**
10 **a quorum for the transaction of business.**

11 **“(6) Official action by the task force requires the approval of a**
12 **majority of the voting members of the task force.**

13 **“(7) The task force shall elect one of its members to serve as**
14 **chairperson.**

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

17 **“(9) The task force shall meet at times and places specified by the**
18 **call of the chairperson or of a majority of the voting members of the**
19 **task force.**

20 **“(10) The task force may adopt rules necessary for the operation**
21 **of the task force.**

22 **“(11)(a) The task force shall provide draft recommendations devel-**
23 **oped under subsections (3) and (4) of this section to the interim com-**
24 **mittees of the Legislative Assembly related to health no later than**
25 **November 15, 2024.**

26 **“(b) The task force shall submit a final report of the task force’s**
27 **recommendations, in the manner provided by ORS 192.245, to the in-**
28 **terim committees of the Legislative Assembly related to health no**
29 **later than December 15, 2024.**

30 **“(12) The Legislative Policy and Research Director shall provide**

1 staff support to the task force, including by:

2 “(a) Researching and providing analysis on current behavioral
3 health funding streams that support the continuum of care across
4 Oregon communities;

5 “(b) Reviewing strategies that have been successful in other states,
6 including through the use of federal Medicaid waivers or Medicaid
7 demonstration projects;

8 “(c) Reviewing data related to the challenges faced by individuals
9 receiving substance use disorder treatment in publicly supported
10 treatment settings; and

11 “(d) Reviewing the responsibilities of county and state agencies and
12 the accountability of county and state agencies for providing behav-
13 ioral health and substance use disorder treatment.

14 “(13) Members of the Legislative Assembly appointed to the task
15 force are nonvoting members of the task force and may act in an ad-
16 visory capacity only.

17 “(14) Members of the task force who are not members of the Leg-
18 islative Assembly are not entitled to compensation or reimbursement
19 for expenses and serve as volunteers on the task force.

20 “(15) All agencies of state government, as defined in ORS 174.111,
21 are directed to assist the task force in the performance of the duties
22 of the task force and, to the extent permitted by laws relating to
23 confidentiality, to furnish information and advice the members of the
24 task force consider necessary to perform their duties.

25

26 “(Conforming Amendments)

27

28 “**SECTION 26.** ORS 750.055 is amended to read:

29 “750.055. (1) The following provisions apply to health care service con-
30 tractors to the extent not inconsistent with the express provisions of ORS

1 750.005 to 750.095:

2 “(a) ORS 705.137, 705.138 and 705.139.

3 “(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385,
4 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as pro-
5 vided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509,
6 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731,
7 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

8 “(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and
9 732.517 to 732.596, not including ORS 732.582, and ORS 732.650 to 732.689.

10 “(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to
11 733.680 and 733.695 to 733.780.

12 “(e) ORS 734.014 to 734.440.

13 “(f) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to
14 742.162 and 742.518 to 742.542.

15 “(g) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.022,
16 743.023, 743.025, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to
17 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498,
18 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680
19 to 743.689, 743.788, 743.790 and 743B.221.

20 “(h) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036,
21 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060,
22 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
23 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
24 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148,
25 743A.150, 743A.160, 743A.168, 743A.169, 743A.170, 743A.175, 743A.185,
26 743A.188, 743A.190, 743A.192, 743A.250, 743A.252, 743A.260, 743A.310 and
27 743A.315 and section 2, chapter 771, Oregon Laws 2013, **and section 7 of this**
28 **2024 Act.**

29 “(i) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195,
30 743B.197, 743B.200, 743B.202, 743B.204, 743B.220, 743B.222, 743B.225, 743B.227,

1 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258,
2 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323,
3 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400,
4 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453,
5 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601, 743B.602 and
6 743B.800.

7 “(j) The following provisions of ORS chapter 744:

8 “(A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation
9 of insurance producers;

10 “(B) ORS 744.602 to 744.665, relating to the regulation of insurance con-
11 sultants; and

12 “(C) ORS 744.700 to 744.740, relating to the regulation of third party ad-
13 ministrators.

14 “(k) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605,
15 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660,
16 746.668, 746.670, 746.675, 746.680 and 746.690.

17 “(2) The following provisions of the Insurance Code apply to health care
18 service contractors except in the case of group practice health maintenance
19 organizations that are federally qualified pursuant to Title XIII of the Public
20 Health Service Act:

21 “(a) ORS 731.485, if the group practice health maintenance organization
22 wholly owns and operates an in-house drug outlet.

23 “(b) ORS 743A.024, unless the patient is referred by a physician, physician
24 assistant or nurse practitioner associated with a group practice health
25 maintenance organization.

26 “(3) For the purposes of this section, health care service contractors are
27 insurers.

28 “(4) Any for-profit health care service contractor organized under the
29 laws of any other state that is not governed by the insurance laws of the
30 other state is subject to all requirements of ORS chapter 732.

1 “(5)(a) A health care service contractor is a domestic insurance company
2 for the purpose of determining whether the health care service contractor is
3 a debtor, as defined in 11 U.S.C. 109.

4 “(b) A health care service contractor’s classification as a domestic insur-
5 ance company under paragraph (a) of this subsection does not subject the
6 health care service contractor to ORS 734.510 to 734.710.

7 “(6) The Director of the Department of Consumer and Business Services
8 may, after notice and hearing, adopt reasonable rules not inconsistent with
9 this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary
10 for the proper administration of these provisions.

11 **“SECTION 27.** ORS 750.055, as amended by section 21, chapter 771,
12 Oregon Laws 2013, section 7, chapter 25, Oregon Laws 2014, section 82,
13 chapter 45, Oregon Laws 2014, section 9, chapter 59, Oregon Laws 2015, sec-
14 tion 7, chapter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws
15 2015, section 11, chapter 362, Oregon Laws 2015, section 10, chapter 470,
16 Oregon Laws 2015, section 30, chapter 515, Oregon Laws 2015, section 10,
17 chapter 206, Oregon Laws 2017, section 6, chapter 417, Oregon Laws 2017,
18 section 22, chapter 479, Oregon Laws 2017, section 10, chapter 7, Oregon
19 Laws 2018, section 69, chapter 13, Oregon Laws 2019, section 38, chapter 151,
20 Oregon Laws 2019, section 5, chapter 441, Oregon Laws 2019, section 85,
21 chapter 97, Oregon Laws 2021, section 12, chapter 37, Oregon Laws 2022,
22 section 5, chapter 111, Oregon Laws 2023, and section 2, chapter 152, Oregon
23 Laws 2023, is amended to read:

24 “750.055. (1) The following provisions apply to health care service con-
25 tractors to the extent not inconsistent with the express provisions of ORS
26 750.005 to 750.095:

27 “(a) ORS 705.137, 705.138 and 705.139.

28 “(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385,
29 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as pro-
30 vided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509,

1 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731,
2 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

3 “(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and
4 732.517 to 732.596, not including ORS 732.582, and ORS 732.650 to 732.689.

5 “(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to
6 733.680 and 733.695 to 733.780.

7 “(e) ORS 734.014 to 734.440.

8 “(f) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to
9 742.162 and 742.518 to 742.542.

10 “(g) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.022,
11 743.023, 743.025, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to
12 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498,
13 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680
14 to 743.689, 743.788, 743.790 and 743B.221.

15 “(h) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036,
16 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060,
17 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
18 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
19 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148,
20 743A.150, 743A.160, 743A.168, 743A.169, 743A.170, 743A.175, 743A.185,
21 743A.188, 743A.190, 743A.192, 743A.250, 743A.252, 743A.260, 743A.310 and
22 **743A.315 and section 7 of this 2024 Act.**

23 “(i) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195,
24 743B.197, 743B.200, 743B.202, 743B.204, 743B.220, 743B.222, 743B.225, 743B.227,
25 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258,
26 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323,
27 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400,
28 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453,
29 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601, 743B.602 and
30 743B.800.

1 “(j) The following provisions of ORS chapter 744:

2 “(A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation
3 of insurance producers;

4 “(B) ORS 744.602 to 744.665, relating to the regulation of insurance con-
5 sultants; and

6 “(C) ORS 744.700 to 744.740, relating to the regulation of third party ad-
7 ministrators.

8 “(k) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605,
9 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660,
10 746.668, 746.670, 746.675, 746.680 and 746.690.

11 “(2) The following provisions of the Insurance Code apply to health care
12 service contractors except in the case of group practice health maintenance
13 organizations that are federally qualified pursuant to Title XIII of the Public
14 Health Service Act:

15 “(a) ORS 731.485, if the group practice health maintenance organization
16 wholly owns and operates an in-house drug outlet.

17 “(b) ORS 743A.024, unless the patient is referred by a physician, physician
18 assistant or nurse practitioner associated with a group practice health
19 maintenance organization.

20 “(3) For the purposes of this section, health care service contractors are
21 insurers.

22 “(4) Any for-profit health care service contractor organized under the
23 laws of any other state that is not governed by the insurance laws of the
24 other state is subject to all requirements of ORS chapter 732.

25 “(5)(a) A health care service contractor is a domestic insurance company
26 for the purpose of determining whether the health care service contractor is
27 a debtor, as defined in 11 U.S.C. 109.

28 “(b) A health care service contractor’s classification as a domestic insur-
29 ance company under paragraph (a) of this subsection does not subject the
30 health care service contractor to ORS 734.510 to 734.710.

1 “(6) The Director of the Department of Consumer and Business Services
2 may, after notice and hearing, adopt reasonable rules not inconsistent with
3 this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary
4 for the proper administration of these provisions.

5 **“SECTION 28.** ORS 750.333 is amended to read:

6 “750.333. (1) The following provisions apply to trusts carrying out a mul-
7 tiple employer welfare arrangement:

8 “(a) ORS 705.137, 705.138 and 705.139.

9 “(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316,
10 731.324, 731.328, 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414,
11 731.418 to 731.434, 731.454, 731.484, 731.486, 731.488, 731.512, 731.574 to 731.620,
12 731.640 to 731.652, 731.804, 731.808 and 731.844 to 731.992.

13 “(c) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680
14 and 733.695 to 733.780.

15 “(d) ORS 734.014 to 734.440.

16 “(e) ORS 742.001 to 742.009, 742.013, 742.016, 742.061 and 742.065.

17 “(f) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.023,
18 743.028, 743.029, 743.053, 743.405, 743.406, 743.524, 743.526, 743.535 and
19 743B.221.

20 “(g) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.024, 743A.034,
21 743A.036, 743A.040, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060,
22 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
23 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
24 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148,
25 743A.150, 743A.160, 743A.168, 743A.169, 743A.170, 743A.175, 743A.180,
26 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252, 743A.260 and
27 743A.310 **and section 7 of this 2024 Act.**

28 “(h) ORS 743B.001, 743B.003 to 743B.127 (except 743B.125 to 743B.127),
29 743B.195, 743B.197, 743B.200, 743B.202, 743B.204, 743B.220, 743B.222, 743B.225,
30 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257,

1 743B.258, 743B.310, 743B.320, 743B.321, 743B.330, 743B.340, 743B.341, 743B.342,
2 743B.343, 743B.344, 743B.345, 743B.347, 743B.400, 743B.403, 743B.407, 743B.420,
3 743B.423, 743B.451, 743B.453, 743B.470, 743B.505, 743B.550, 743B.555 and
4 743B.601.

5 “(i) The following provisions of ORS chapter 744:

6 “(A) ORS 744.052 to 744.089, 744.091 and 744.093, relating to the regulation
7 of insurance producers;

8 “(B) ORS 744.602 to 744.665, relating to the regulation of insurance con-
9 sultants; and

10 “(C) ORS 744.700 to 744.740, relating to the regulation of third party ad-
11 ministrators.

12 “(j) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

13 “(2) For the purposes of this section:

14 “(a) A trust carrying out a multiple employer welfare arrangement is an
15 insurer.

16 “(b) References to certificates of authority are references to certificates
17 of multiple employer welfare arrangement.

18 “(c) Contributions are premiums.

19 “(3) The provision of health benefits under ORS 750.301 to 750.341 is the
20 transaction of health insurance.

21 “(4) The Department of Consumer and Business Services may adopt rules
22 that are necessary to implement the provisions of ORS 750.301 to 750.341.

23

24

“PUBLIC SAFETY

25

“(Definition of Delivery of Controlled 26 Substances Based on State v. Boyd)

27

28 “**SECTION 29.** ORS 475.005 is amended to read:

29 “475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless
30 the context requires otherwise:

1 “(1) ‘Abuse’ means the repetitive excessive use of a drug short of de-
2 pendence, without legal or medical supervision, which may have a detri-
3 mental effect on the individual or society.

4 “(2) ‘Administer’ means the direct application of a controlled substance,
5 whether by injection, inhalation, ingestion or any other means, to the body
6 of a patient or research subject by:

7 “(a) A practitioner or an authorized agent thereof; or

8 “(b) The patient or research subject at the direction of the practitioner.

9 “(3) ‘Administration’ means the Drug Enforcement Administration of the
10 United States Department of Justice, or its successor agency.

11 “(4) ‘Agent’ means an authorized person who acts on behalf of or at the
12 direction of a manufacturer, distributor or dispenser. It does not include a
13 common or contract carrier, public warehouseman or employee of the carrier
14 or warehouseman.

15 “(5) ‘Board’ means the State Board of Pharmacy.

16 “(6) ‘Controlled substance’:

17 “(a) Means a drug or its immediate precursor classified in Schedules I
18 through V under the federal Controlled Substances Act, 21 U.S.C. 811 to 812,
19 as modified under ORS 475.035. The use of the term ‘precursor’ in this para-
20 graph does not control and is not controlled by the use of the term
21 ‘precursor’ in ORS 475.752 to 475.980.

22 “(b) Does not include:

23 “(A) The plant Cannabis family Cannabaceae;

24 “(B) Any part of the plant Cannabis family Cannabaceae, whether grow-
25 ing or not;

26 “(C) Resin extracted from any part of the plant Cannabis family
27 Cannabaceae;

28 “(D) The seeds of the plant Cannabis family Cannabaceae;

29 “(E) Any compound, manufacture, salt, derivative, mixture or preparation
30 of a plant, part of a plant, resin or seed described in this paragraph; or

1 “(F) Psilocybin or psilocin, but only if and to the extent that a person
2 manufactures, delivers, or possesses psilocybin, psilocin, or psilocybin pro-
3 ducts in accordance with the provisions of ORS 475A.210 to 475A.722 and
4 rules adopted under ORS 475A.210 to 475A.722.

5 “(7) ‘Counterfeit substance’ means a controlled substance or its container
6 or labeling, which, without authorization, bears the trademark, trade name,
7 or other identifying mark, imprint, number or device, or any likeness thereof,
8 of a manufacturer, distributor or dispenser other than the person who in fact
9 manufactured, delivered or dispensed the substance.

10 “(8) ‘Deliver’ or ‘delivery’ means the actual, constructive or attempted
11 transfer **of, or possession with the intent to transfer**, other than by ad-
12 ministering or dispensing, from one person to another, [of] a controlled sub-
13 stance, whether or not there is an agency relationship.

14 “(9) ‘Device’ means instruments, apparatus or contrivances, including
15 their components, parts or accessories, intended:

16 “(a) For use in the diagnosis, cure, mitigation, treatment or prevention
17 of disease in humans or animals; or

18 “(b) To affect the structure of any function of the body of humans or
19 animals.

20 “(10) ‘Dispense’ means to deliver a controlled substance to an ultimate
21 user or research subject by or pursuant to the lawful order of a practitioner,
22 and includes the prescribing, administering, packaging, labeling or com-
23 pounding necessary to prepare the substance for that delivery.

24 “(11) ‘Dispenser’ means a practitioner who dispenses.

25 “(12) ‘Distributor’ means a person who delivers.

26 “(13) ‘Drug’ means:

27 “(a) Substances recognized as drugs in the official United States
28 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or
29 official National Formulary, or any supplement to any of them;

30 “(b) Substances intended for use in the diagnosis, cure, mitigation, treat-

1 ment or prevention of disease in humans or animals;

2 “(c) Substances (other than food) intended to affect the structure or any
3 function of the body of humans or animals; and

4 “(d) Substances intended for use as a component of any article specified
5 in paragraph (a), (b) or (c) of this subsection; however, the term does not
6 include devices or their components, parts or accessories.

7 “(14) ‘Electronically transmitted’ or ‘electronic transmission’ means a
8 communication sent or received through technological apparatuses, including
9 computer terminals or other equipment or mechanisms linked by telephone
10 or microwave relays, or any similar apparatus having electrical, digital,
11 magnetic, wireless, optical, electromagnetic or similar capabilities.

12 “(15) ‘Manufacture’ means the production, preparation, propagation, com-
13 pounding, conversion or processing of a controlled substance, either directly
14 or indirectly by extraction from substances of natural origin, or independ-
15 ently by means of chemical synthesis, or by a combination of extraction and
16 chemical synthesis, and includes any packaging or repackaging of the sub-
17 stance or labeling or relabeling of its container, except that this term does
18 not include the preparation or compounding of a controlled substance:

19 “(a) By a practitioner as an incident to administering or dispensing of a
20 controlled substance in the course of professional practice; or

21 “(b) By a practitioner, or by an authorized agent under the practitioner’s
22 supervision, for the purpose of, or as an incident to, research, teaching or
23 chemical analysis and not for sale.

24 “(16) ‘Person’ includes a government subdivision or agency, business trust,
25 estate, trust or any other legal entity.

26 “(17) ‘Practitioner’ means physician, dentist, veterinarian, scientific in-
27 vestigator, licensed nurse practitioner, physician assistant or other person
28 licensed, registered or otherwise permitted by law to dispense, conduct re-
29 search with respect to or to administer a controlled substance in the course
30 of professional practice or research in this state but does not include a

1 pharmacist or a pharmacy.

2 “(18) ‘Prescription’ means a written, oral or electronically transmitted
3 direction, given by a practitioner for the preparation and use of a drug.
4 When the context requires, ‘prescription’ also means the drug prepared under
5 such written, oral or electronically transmitted direction. Any label affixed
6 to a drug prepared under written, oral or electronically transmitted direction
7 shall prominently display a warning that the removal thereof is prohibited
8 by law.

9 “(19) ‘Production’ includes the manufacture, planting, cultivation, grow-
10 ing or harvesting of a controlled substance.

11 “(20) ‘Research’ means an activity conducted by the person registered
12 with the federal Drug Enforcement Administration pursuant to a protocol
13 approved by the United States Food and Drug Administration.

14 “(21) ‘Ultimate user’ means a person who lawfully possesses a controlled
15 substance for the use of the person or for the use of a member of the
16 household of the person or for administering to an animal owned by the
17 person or by a member of the household of the person.

18 “(22) ‘Usable quantity’ means:

19 “(a) An amount of a controlled substance that is sufficient to physically
20 weigh independent of its packaging and that does not fall below the uncer-
21 tainty of the measuring scale; or

22 “(b) An amount of a controlled substance that has not been deemed
23 unweighable, as determined by a Department of State Police forensic labo-
24 ratory, due to the circumstances of the controlled substance.

25 “(23) ‘Within 1,000 feet’ means a straight line measurement in a radius
26 extending for 1,000 feet or less in every direction from a specified location
27 or from any point on the boundary line of a specified unit of property.

28

29

“(Pre-Trial Release)”

30

1 **“SECTION 30.** ORS 135.233 is amended to read:

2 “135.233. (1)(a) The presiding judge of a judicial district shall enter a
3 standing pretrial release order specifying to the sheriff of the county, or to
4 the entity supervising the local correctional facility responsible for pretrial
5 incarceration within the judicial district, those persons and offenses:

6 “[(a)] (A) Subject to release on recognizance;

7 “[(b)] (B) Subject to release with special conditions as specified in the
8 order; and

9 “[(c)] (C) That are not eligible for release until arraignment.

10 **“(b) The standing pretrial release order described in this section**
11 **may allow for release on recognizance or conditional release for de-**
12 **fendants who are not charged with unlawful delivery of a controlled**
13 **substance involving a substantial quantity as described in ORS 475.900**
14 **(1)(a), but must specify that defendants who are charged with unlawful**
15 **delivery of a controlled substance involving a substantial quantity as**
16 **described in ORS 475.900 (1)(a) are not eligible for release until**
17 **arraignment and may be released only on security release.**

18 “(2) The Chief Justice of the Supreme Court, with input from a criminal
19 justice advisory committee appointed by the Chief Justice, shall establish
20 release guidelines for the pretrial release orders described in this section to:

21 “(a) Provide consistent release decision-making structure across the state;

22 “[(b) *Reduce reliance on the use of security;*]

23 “[(c)] (b) Include provisions for victim notification and input; and

24 “[(d)] (c) Balance the rights of the defendant and presumption of pretrial
25 release against community and victim safety and the risk of failure to ap-
26 pear.

27 **“SECTION 31.** ORS 135.235 is amended to read:

28 “135.235. (1) A presiding judge for a judicial district may appoint release
29 assistance officers under a personnel plan established by the Chief Justice
30 of the Supreme Court.

1 “(2) A release assistance officer shall, except when impracticable, inter-
2 view every person detained pursuant to law and charged with an offense. If
3 the person is charged with a person felony or person Class A misdemeanor,
4 as those terms are defined in the rules of the Oregon Criminal Justice
5 Commission, or with contempt of court for violating a court order protecting
6 or prohibiting contact with another person, the release assistance officer
7 shall make reasonable efforts to contact the victim prior to submitting a
8 report or making a release decision under subsection (3) of this section. If
9 the release assistance officer is able to contact the victim:

10 “(a) Information regarding the victim’s position on release, including
11 whether special release conditions should be imposed, must be included in
12 the report described in subsection (3) of this section, and considered by the
13 release assistance officer if the officer makes the release decision; and

14 “(b) If the information is available, the release assistance officer shall
15 inform the victim of the location, date and time of the defendant’s
16 arraignment or other first appearance.

17 “(3) The release assistance officer shall verify release criteria information
18 and may either:

19 “(a) Timely submit a written report to the magistrate containing, but not
20 limited to, an evaluation of the release criteria and **either** a recommendation
21 for the form of release **or, for a defendant charged with unlawful deliv-**
22 **ery of a controlled substance involving a substantial quantity as de-**
23 **scribed in ORS 475.900 (1)(a), the amount of security; or**

24 “(b) **For a defendant who is not charged with unlawful delivery of**
25 **a controlled substance involving a substantial quantity as described in**
26 **ORS 475.900 (1)(a), and** if delegated release authority by the presiding judge
27 for the judicial district, make the release decision.

28 “(4) As used in this section, ‘victim’ means an individual that the charg-
29 ing instrument indicates is the victim of the alleged offense or the person
30 protected by the court order, whether or not the individual is specifically

1 named, so long as the release assistance officer is able to confirm the iden-
2 tity of the individual.

3 **“SECTION 32.** ORS 135.245 is amended to read:

4 “135.245. (1) Except as provided in ORS 135.240, a person in custody has
5 the right to be taken before a magistrate without undue delay.

6 “(2)(a) A magistrate shall make a release decision at the time of
7 arraignment or other first appearance after the defendant is taken into cus-
8 tody unless good cause to postpone the release decision is shown, in which
9 case a release hearing shall be held pursuant to subsection (7) of this section.

10 “(b) The district attorney shall make reasonable efforts to inform the
11 victim of the location, date and time of the arraignment or other first ap-
12 pearance and to determine if the victim is present at the arraignment or
13 appearance. If the victim is present, the victim has the right to reasonably
14 express any views relevant to the issues at the appearance.

15 “(c) As used in this subsection, ‘good cause’ includes circumstances in
16 which:

17 “(A) The district attorney plans to seek preventative detention; or

18 “(B) There is a reasonable belief that additional evidence exists and
19 would be relevant to the release decision, but is not currently available.

20 “(3) **For a defendant who is not charged with unlawful delivery of**
21 **a controlled substance involving a substantial quantity as described in**
22 **ORS 475.900 (1)(a):**

23 “(a) If the magistrate, having given priority to the primary release cri-
24 teria, decides to release [a] **the** defendant or to set security, the magistrate
25 shall impose the least onerous condition reasonably likely to ensure the
26 safety of the public and the victim and the person’s later appearance and, if
27 the person is charged with an offense involving domestic violence, ensure
28 that the person does not engage in domestic violence while on release. A
29 person in custody, otherwise having a right to release, shall be released upon
30 the personal recognizance unless:

1 “[(a)] (A) Release criteria show to the satisfaction of the magistrate that
2 such a release is unwarranted; or

3 “[(b)] (B) Subsection (6) of this section applies to the person.

4 “[(4)] (b) Upon a finding that release of the person on personal recogni-
5 zance is unwarranted, the magistrate shall proceed to consider conditional
6 release under ORS 135.260. Only after determining that conditional release
7 is unwarranted, or if otherwise required by ORS 135.230 to 135.290, may the
8 magistrate proceed to consider security release under ORS 135.265.

9 **“(4) For a defendant charged with unlawful delivery of a controlled
10 substance involving a substantial quantity as described in ORS 475.900
11 (1)(a), the magistrate may not release the defendant on personal re-
12 cognizance or conditional release and, after considering the primary
13 release criteria, shall set a security amount under ORS 135.265.**

14 “(5) At the release hearing:

15 “(a) The district attorney has a right to be heard in relation to issues
16 relevant to the release decision; and

17 “(b) The victim has the right:

18 “(A) Upon request made within the time period prescribed in the notice
19 required by ORS 147.417, to be notified by the district attorney of the release
20 hearing;

21 “(B) To appear personally at the hearing; and

22 “(C) If present, to reasonably express any views relevant to the issues
23 before the magistrate.

24 “(6) If a person refuses to provide a true name under the circumstances
25 described in ORS 135.060 and 135.065, the magistrate may not release the
26 person on personal recognizance or on conditional release. The magistrate
27 may release the person on security release under ORS 135.265 except that the
28 magistrate shall require the person to deposit the full security amount set
29 by the magistrate.

30 “(7)(a) After the postponement of a release decision under subsection (2)

1 of this section, upon the request of either party, or upon the magistrate's
2 own motion, the magistrate shall make a release decision or reconsider the
3 release decision, as applicable, at a release hearing. The release hearing must
4 be held within 48 hours of arraignment or other first appearance after the
5 defendant is taken into custody unless both parties agree, or the court finds
6 good cause, to hold the hearing at a later time. Under no circumstances may
7 the release hearing be held more than five days after arraignment or other
8 first appearance after the defendant is taken into custody unless the de-
9 fendant consents to holding the hearing at a later time.

10 “(b) A hearing held under this subsection may not be used for purposes
11 of discovery.

12 “(8) This section shall be liberally construed to carry out the purpose of
13 relying upon criminal sanctions instead of financial loss to ensure the ap-
14 pearance of the defendant.

15 **“SECTION 33.** ORS 135.265 is amended to read:

16 “135.265. (1) If the defendant is not released on personal recognizance
17 under ORS 135.255, [*or*] **is not** granted conditional release under ORS
18 135.260, [*or*] fails to agree to the provisions of the conditional release, **or**
19 **does not qualify for release on personal recognizance or conditional**
20 **release due to being charged with unlawful delivery of a controlled**
21 **substance involving a substantial quantity as described in ORS 475.900**
22 **(1)(a)**, the magistrate shall set a security amount that will reasonably assure
23 the defendant's appearance. The defendant shall execute the security release
24 in the amount set by the magistrate.

25 “(2) The defendant shall execute a release agreement and deposit with the
26 clerk of the court before which the proceeding is pending a sum of money
27 equal to 10 percent of the security amount, but in no event shall such deposit
28 be less than \$25. The clerk shall issue a receipt for the sum deposited. Upon
29 depositing this sum the defendant shall be released from custody subject to
30 the condition that the defendant appear to answer the charge in the court

1 having jurisdiction on a day certain and thereafter as ordered by the court
2 until discharged or final order of the court. Once security has been given
3 and a charge is pending or is thereafter filed in or transferred to a court of
4 competent jurisdiction the latter court shall continue the original security
5 in that court subject to ORS 135.280 and 135.285. When conditions of the
6 release agreement have been performed and the defendant has been dis-
7 charged from all obligations in the cause, the clerk of the court shall return
8 to the person shown by the receipt to have made the deposit, unless the court
9 orders otherwise, 85 percent of the sum which has been deposited and shall
10 retain as security release costs 15 percent, but not less than \$5 nor more
11 than \$750, of the amount deposited. The interest that has accrued on the full
12 amount deposited shall also be retained by the clerk. The amount retained
13 by the clerk of a circuit court shall be paid over as directed by the State
14 Court Administrator for deposit in the General Fund. The amount retained
15 by a justice of the peace shall be deposited in the county treasury. The
16 amount retained by the clerk of a municipal court shall be deposited in the
17 municipal corporation treasury. At the request of the defendant the court
18 may order whatever amount is repayable to defendant from such security
19 amount to be paid to defendant's attorney of record.

20 “(3) Instead of the security deposit provided for in subsection (2) of this
21 section the defendant may deposit with the clerk of the court an amount
22 equal to the security amount in cash, stocks, bonds, or real or personal
23 property situated in this state with equity not exempt owned by the defend-
24 ant or sureties worth double the amount of security set by the magistrate.
25 The stocks, bonds, real or personal property shall in all cases be justified
26 by affidavit. The magistrate may further examine the sufficiency of the se-
27 curity as the magistrate considers necessary.

28 **“SECTION 34. (1) The state shall reimburse each county for the**
29 **costs of pretrial incarceration of persons charged with unlawful deliv-**
30 **ery of a controlled substance involving a substantial quantity as de-**

1 scribed in ORS 475.900 (1)(a) as provided in this section. The
2 reimbursement shall cover the costs of incarceration for each day that
3 the charged person is in the custody of the supervisory authority of
4 the county, from the date of the person’s arrest until the resolution
5 of the criminal charge.

6 “(2) At the end of each month, the county shall submit to the
7 Oregon Department of Administrative Services a written request for
8 reimbursement for the cost of incarcerating persons described in sub-
9 section (1) of this section.

10 “(3) The department shall reimburse a county that submits a re-
11 quest under subsection (2) of this section within seven days of receiv-
12 ing the request. The reimbursement shall occur at the rate of \$100 per
13 person per day of incarceration or the actual daily cost of
14 incarcerating a person, whichever is higher.

15 “SECTION 35. In addition to and not in lieu of any other appropri-
16 ation, there is appropriated to the Oregon Department of Administra-
17 tive Services, for the biennium ending June 30, 2025, out of the General
18 Fund, the amount of \$_____, for distribution to counties for re-
19 imbursement of pretrial incarceration costs under section 34 of this
20 2024 Act.

21

22 “(Unclassified Misdemeanor Provisions)

23

24 “SECTION 36. Section 37 of this 2024 Act is added to and made a
25 part of ORS 475.752 to 475.980.

26 “SECTION 37. (1) The crime of unlawful possession of a controlled
27 substance constituting an unclassified misdemeanor under ORS 475.752
28 (3)(a) to (d), 475.814 (2), 475.824 (2)(a), 475.834 (2)(a), 475.854 (2)(a), 475.874
29 (2)(a), 475.884 (2)(a) or 475.894 (2)(a) is subject to the procedures and
30 sentencing provisions described in this section.

1 **“(2)(a) Notwithstanding ORS 135.230 to 135.290, upon arrest for the**
2 **crime described in this section, the defendant shall be committed to**
3 **the legal and physical custody of the supervisory authority pending**
4 **arraignment.**

5 **“(b) When a defendant has been committed to the legal and physical**
6 **custody of the supervisory authority under this subsection, the su-**
7 **pervisory authority shall determine where to transfer the physical**
8 **custody of the defendant as follows:**

9 **“(A) The defendant shall be transferred to a secure detoxification**
10 **center whenever possible.**

11 **“(B) If a secure detoxification center is not available, the defendant**
12 **may be incarcerated in a local correctional facility with a**
13 **detoxification program.**

14 **“(C) If neither a secure detoxification center or a local correctional**
15 **facility with a detoxification program are available, the defendant may**
16 **be incarcerated in a local correctional facility.**

17 **“(c) The supervisory authority may enter into regional agreements**
18 **with other counties to allow the transfer of defendants to a local**
19 **correctional facility with a detoxification program in another county.**

20 **“(3)(a) Notwithstanding ORS 135.010, arraignment for the crime de-**
21 **scribed in this section shall occur within the first 72 hours of custody,**
22 **excluding holidays, Saturdays and Sundays.**

23 **“(b) At arraignment for the crime described in this section, the**
24 **court shall determine whether there is probable cause that the de-**
25 **fendant committed the crime.**

26 **“(c) If the court determines there is not probable cause, the court**
27 **shall release the defendant.**

28 **“(d) If the court determines there is probable cause:**

29 **“(A) The court shall order that the defendant be committed to the**
30 **legal and physical custody of the supervisory authority for partic-**

1 ipation in a temporary treatment program pending trial.

2 “(B) Notwithstanding ORS 135.230 to 135.290, the defendant is not
3 eligible for any kind of release other than security release as required
4 by the Oregon and United States Constitutions, and the court shall set
5 security in an amount necessary to secure the defendant’s appearance
6 and maintain community safety.

7 “(C) The court may assign a drug court referee appointed under
8 section 38 of this 2024 Act to the case, and the court, or the drug court
9 referee, shall set a status review every 30 days to determine whether
10 the defendant is receiving treatment. The court or the referee may
11 modify the custody status of the defendant or enter other appropriate
12 orders as needed to ensure that the defendant is receiving treatment.

13 “(e) In making the probable cause determination, the court may
14 rely on a probable cause affidavit prepared by a law enforcement offi-
15 cer or any other information or evidence the court finds to be relevant
16 and credible. The Oregon Evidence Code does not apply to hearings at
17 which probable cause determinations are made under this subsection.

18 “(4) Notwithstanding ORS 137.010 and 137.124 (4), when imposing
19 sentence for a crime described in this section, the court shall commit
20 the defendant to the legal and physical custody of the supervisory
21 authority for a period of 364 days for compassionate custodial care.
22 The court shall grant credit for time served for each day that the de-
23 fendant was committed to the custody of the supervisory authority
24 under subsections (2) or (3) of this section, regardless of whether the
25 defendant was housed in a local correctional facility or a treatment
26 center.

27 “(5) When a defendant has been committed to the legal and physical
28 custody of the supervisory authority for a temporary treatment pro-
29 gram under subsection (3) of this section or compassionate custodial
30 care under subsection (4) of this section, the supervisory authority

1 shall determine where to transfer the physical custody of the defend-
2 ant based on the needs of the defendant and the protection and welfare
3 of the community and the defendant. The supervisory authority may
4 maintain the defendant in a local correctional facility with a treat-
5 ment program, may release the defendant to a residential treatment
6 facility or may release the defendant to participate in an outpatient
7 treatment program.

8 “(6) As used in this section:

9 “(a) ‘Detoxification center’ has the meaning given that term in ORS
10 430.306.

11 “(b) ‘Local correctional facility’ has the meaning given that term
12 in ORS 169.005.

13 “(c) ‘Supervisory authority’ has the meaning given that term in
14 ORS 144.087.

15 “(d) ‘Treatment facility’ has the meaning given that term in ORS
16 430.306.

17 **“SECTION 38. (1) Subject to the approval of the Chief Justice of the
18 Supreme Court, the presiding judge of a judicial district may appoint
19 one or more persons as drug court referee.**

20 **“(2) A drug court referee appointed under this section:**

21 **“(a) Must be a licensed and practicing attorney of this state.**

22 **“(b) Serves as the pleasure of the presiding judge.**

23 **“(3) The court, at arraignment, may direct that a case involving
24 unlawful possession of a controlled substance constituting an unclas-
25 sified misdemeanor under ORS 475.752 (3)(a) to (d), 475.814 (2), 475.824
26 (2)(a), 475.834 (2)(a), 475.854 (2)(a), 475.874 (2)(a), 475.884 (2)(a) or 475.894
27 (2)(a) be monitored and reviewed by a drug court referee as provided
28 in section 37 of this 2024 Act.**

29 **“(4) A drug court referee is authorized to modify the custody status
30 of a defendant charged with a crime described in subsection (3) of this**

1 section, or enter other appropriate orders as needed, to ensure that the
2 defendant is receiving treatment.

3 “(5) A person appointed as a drug court referee shall not be con-
4 sidered to be, or to have the judicial powers, duties, jurisdiction and
5 authority of, a judge of the circuit court except to the extent provided
6 in this section and section 37 of this 2024 Act.

7

8 “(Custody and Treatment)

9

10 “**SECTION 39.** (1) The state shall reimburse each county for the
11 costs of:

12 “(a) Pretrial commitment to the custody of the supervisory au-
13 thority under section 37 (2) or (3) of this 2024 Act, including costs of
14 treatment and incarceration, of persons charged with unlawful pos-
15 session of a controlled substance constituting an unclassified
16 misdemeanor under ORS 475.752 (3)(a) to (d), 475.814 (2), 475.824 (2)(a),
17 475.834 (2)(a), 475.854 (2)(a), 475.874 (2)(a), 475.884 (2)(a) or 475.894 (2)(a).

18 “(b) Commitment of a defendant to the supervisory authority for
19 compassionate custodial care under section 37 (4) of this 2024 Act, after
20 conviction for unlawful possession of a controlled substance consti-
21 tuting an unclassified misdemeanor under ORS 475.752 (3)(a) to (d),
22 475.814 (2), 475.824 (2)(a), 475.834 (2)(a), 475.854 (2)(a), 475.874 (2)(a),
23 475.884 (2)(a) or 475.894 (2)(a).

24 “(2) The reimbursement described in this section shall cover all
25 costs of commitment from the date of the person’s arrest until the end
26 of the commitment period, including time spent incarcerated in a local
27 correctional facility and time spent in a secure detoxification center
28 or treatment facility.

29 “(3) At the end of each month, the county shall submit to the
30 Oregon Department of Administrative Services a written request for

1 reimbursement for the costs described in subsection (1) of this section.

2 “(4) The department shall reimburse a county that submits a re-
3 quest under subsection (3) of this section within seven days of receiv-
4 ing the request. The reimbursement shall occur at the rate of \$100 per
5 person per day of commitment to the custody of the supervisory au-
6 thority or the actual daily cost of the incarceration or treatment,
7 whichever is higher.

8 **“SECTION 40.** In addition to and not in lieu of any other appropri-
9 ation, there is appropriated to the Oregon Department of Administra-
10 tive Services, for the biennium ending June 30, 2025, out of the General
11 Fund, the amount of \$_____, for distribution to counties for re-
12 imbursement of costs described in section 39 of this 2024 Act.

13 **“SECTION 41. (1)** The Oregon Department of Administrative Ser-
14 vices shall establish a program for awarding grants to local
15 correctional facilities for the development and funding of
16 detoxification programs within local correctional facilities.

17 “(2) A local correctional facility may apply for a grant under this
18 section.

19 “(3) The department shall by rule establish the:

20 “(a) Application process;

21 “(b) Eligibility criteria for the grant program; and

22 “(c) Process of awarding grants under this section.

23 “(4) As used in this section:

24 “(a) ‘Detoxification program’ means a program that provides
25 emergency care or treatment for persons who are in custody and
26 physically dependent on a controlled substance or experiencing with-
27 drawal from the use of a controlled substance.

28 “(b) ‘Local correctional facility’ has the meaning given that term
29 in ORS 169.005.

30 **“SECTION 42.** In addition to and not in lieu of any other appropri-

1 ation, there is appropriated to the Oregon Department of Administra-
2 tive Services, for the biennium ending June 30, 2025, out of the General
3 Fund, the amount of \$_____, for funding the grant program de-
4 scribed in section 41 of this 2024 Act.

5 **“SECTION 43. (1) The Department of Corrections shall establish**
6 **regional residential treatment facilities in this state that are capable**
7 **of accommodating persons committed to the custody of the supervi-**
8 **sory authority under section 37 of this 2024 Act for a temporary**
9 **treatment program or compassionate custodial care.**

10 **“(2) A facility established under this section must include a secure**
11 **inpatient facility.**

12 **“SECTION 44. In addition to and not in lieu of any other appropri-**
13 **ation, there is appropriated to the Department of Corrections, for the**
14 **biennium ending June 30, 2025, out of the General Fund, the amount**
15 **of \$_____, for the funding of regional residential treatment facili-**
16 **ties described in section 43 of this 2024 Act.**

17
18 **“(Juvenile Provisions)**
19

20 **“SECTION 45. It is the policy of the Legislative Assembly to ensure**
21 **that individuals in this state who are under 18 years of age have access**
22 **to substance use disorder treatment and recovery services. It is fur-**
23 **ther the policy of the Legislative Assembly to encourage state agencies**
24 **that provide grants or other financial support to providers of sub-**
25 **stance use disorder treatment and recovery services to consider dedi-**
26 **cating funding for the provision of such services to individuals who**
27 **are under 18 years of age.**

28 **“SECTION 46. (1) The Oregon Youth Authority, in consultation with**
29 **the Oregon Juvenile Department Directors’ Association, shall develop**
30 **a juvenile residential services substance use disorder treatment and**

1 recovery plan for youth who are adjudicated to have committed an act
2 that would be an unlawful possession of a controlled substance con-
3 stituting an unclassified misdemeanor if done by an adult.

4 “(2) The authority shall submit a report in the manner provided by
5 ORS 192.245, and may include recommendations for legislation, to the
6 interim committees of the Legislative Assembly related to the judici-
7 ary no later than September 15, 2024.

8 “SECTION 47. Section 46 of this 2024 Act is repealed on January 2,
9 2025.

10 “SECTION 48. Section 49 of this 2024 Act is added to and made a
11 part of ORS chapter 419C.

12 “SECTION 49. If a youth enters into a formal accountability
13 agreement under ORS 419C.230, and a juvenile department counselor
14 has probable cause to believe that the youth may be found to be within
15 the jurisdiction of the juvenile court for an act that if done by an adult
16 would constitute unlawful possession of a controlled substance con-
17 stituting an unclassified misdemeanor as described in section 37 of this
18 2024 Act, the agreement must require the youth to undergo substance
19 use disorder screening and, if warranted by the results of the screen-
20 ing, undergo appropriate substance use disorder care and treatment.

21 “SECTION 50. ORS 419C.460 is amended to read:

22 “419C.460. (1) If a youth is within the jurisdiction of the court for having
23 committed an act that, if committed by an adult, would constitute [*a Class*
24 *E violation, the court shall proceed in accordance with ORS 153.062.*] **unlaw-**
25 **ful possession of a controlled substance constituting an unclassified**
26 **misdemeanor as described in section 37 of this 2024 Act, the court shall**
27 **inform the youth of the youth’s options for entering into a formal**
28 **accountability agreement under ORS 419C.230.**

29 “(2) A court having jurisdiction pursuant to ORS 419C.005 over an
30 adjudicated youth who commits an act that, if done by an adult, would

1 **constitute unlawful possession of a controlled substance constituting**
2 **an unclassified misdemeanor as described in section 37 of this 2024 Act**
3 **may, in addition to any other exercise of jurisdiction over the adjudi-**
4 **cated youth, order that the adjudicated youth undergo substance use**
5 **disorder screening and, if warranted by the results of the screening,**
6 **undergo appropriate substance use disorder care and treatment.**

7 *“(2) Nothing in subsection (1) of this section prevents a youth from entering*
8 *into a formal accountability agreement under ORS 419C.230 for a Class E vi-*
9 *olation.]*

10

11 **“(Conforming Amendments)**

12

13 **“SECTION 51.** ORS 475.752 is amended to read:

14 *“475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752*
15 *to 475.980, it is unlawful for any person to manufacture or deliver a con-*
16 *trolled substance. Any person who violates this subsection with respect to:*

17 *“(a) A controlled substance in Schedule I, is guilty of a Class A felony,*
18 *except as otherwise provided in ORS 475.886 and 475.890.*

19 *“(b) A controlled substance in Schedule II, is guilty of a Class B felony,*
20 *except as otherwise provided in ORS 475.878, 475.880, 475.882, 475.904 and*
21 *475.906.*

22 *“(c) A controlled substance in Schedule III, is guilty of a Class C felony,*
23 *except as otherwise provided in ORS 475.904 and 475.906.*

24 *“(d) A controlled substance in Schedule IV, is guilty of a Class B*
25 *misdemeanor.*

26 *“(e) A controlled substance in Schedule V, is guilty of a Class C*
27 *misdemeanor.*

28 *“(2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980,*
29 *it is unlawful for any person to create or deliver a counterfeit substance.*
30 *Any person who violates this subsection with respect to:*

1 “(a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

2 “(b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

3 “(c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

4 “(d) A counterfeit substance in Schedule IV, is guilty of a Class B
5 misdemeanor.

6 “(e) A counterfeit substance in Schedule V, is guilty of a Class C
7 misdemeanor.

8 “(3) It is unlawful for any person knowingly or intentionally to possess
9 a controlled substance unless the substance was obtained directly from, or
10 pursuant to a valid prescription or order of, a practitioner while acting in
11 the course of professional practice, or except as otherwise authorized by ORS
12 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this sub-
13 section with respect to:

14 “(a) A controlled substance in Schedule I, is guilty of [*a Class E*
15 *violation*] **an unclassified misdemeanor as described in section 37 of this**
16 **2024 Act**, except as otherwise provided in ORS 475.854, 475.874 and 475.894
17 and subsection (7) of this section.

18 “(b) A controlled substance in Schedule II, is guilty of [*a Class E*
19 *violation*] **an unclassified misdemeanor as described in section 37 of this**
20 **2024 Act**, except as otherwise provided in ORS 475.814, 475.824, 475.834 or
21 475.884 or subsection (8) of this section.

22 “(c) A controlled substance in Schedule III, is guilty of [*a Class E vio-*
23 *lation*] **an unclassified misdemeanor as described in section 37 of this**
24 **2024 Act**.

25 “(d) A controlled substance in Schedule IV, is guilty of [*a Class E vio-*
26 *lation*] **an unclassified misdemeanor as described in section 37 of this**
27 **2024 Act**.

28 “(e) A controlled substance in Schedule V, is guilty of a violation.

29 “(4) It is an affirmative defense in any prosecution under this section for
30 manufacture, possession or delivery of the plant of the genus *Lophophora*

1 commonly known as peyote that the peyote is being used or is intended for
2 use:

3 “(a) In connection with the good faith practice of a religious belief;

4 “(b) As directly associated with a religious practice; and

5 “(c) In a manner that is not dangerous to the health of the user or others
6 who are in the proximity of the user.

7 “(5) The affirmative defense created in subsection (4) of this section is
8 not available to any person who has possessed or delivered the peyote while
9 incarcerated in a correctional facility in this state.

10 “(6)(a) Notwithstanding subsection (1) of this section, a person who un-
11 lawfully manufactures or delivers a controlled substance in Schedule IV and
12 who thereby causes death to another person is guilty of a Class C felony.

13 “(b) For purposes of this subsection, causation is established when the
14 controlled substance plays a substantial role in the death of the other per-
15 son.

16 “(7) Notwithstanding subsection (3)(a) of this section[:],

17 “[*(a) Unlawful possession of a controlled substance in Schedule I is a Class*
18 *A misdemeanor if the person possesses:]*

19 “[*(A) Forty or more user units of a mixture or substance containing a de-*
20 *tectable amount of lysergic acid diethylamide; or]*

21 “[*(B) Twelve grams or more of a mixture or substance containing a detect-*
22 *able amount of psilocybin or psilocin.]*

23 “[*(b)]* unlawful possession of a controlled substance in Schedule I is a
24 Class B felony if:

25 “[*(A)*] **(a)** The possession is a commercial drug offense under ORS 475.900
26 (1)(b); or

27 “[*(B)*] **(b)** The person possesses a substantial quantity under ORS 475.900
28 (2)(b).

29 “(8) Notwithstanding subsection (3)(b) of this section[:],

30 “[*(a) Unlawful possession of a controlled substance in Schedule II is a*

1 *Class A misdemeanor if the person possesses one gram or more or five or more*
2 *user units of a mixture or substance containing a detectable amount of*
3 *fentanyl, or any substituted derivative of fentanyl as defined by the rules of*
4 *the State Board of Pharmacy.]*

5 “[*(b)*] unlawful possession of a controlled substance in Schedule II is a
6 Class C felony if:

7 “[*(A)*] (**a**) The possession is a commercial drug offense under ORS 475.900
8 (1)(b); or

9 “[*(B)*] (**b**) The person possesses a substantial quantity under ORS 475.900
10 (2)(b).

11 **“SECTION 52.** ORS 475.814 is amended to read:

12 “475.814. (1) It is unlawful for any person knowingly or intentionally to
13 possess hydrocodone unless the hydrocodone was obtained directly from, or
14 pursuant to a valid prescription or order of, a practitioner while acting in
15 the course of professional practice, or except as otherwise authorized by ORS
16 475.005 to 475.285 and 475.752 to 475.980.

17 “[*(2)(a)*] Unlawful possession of hydrocodone is [*a Class E violation*] **an**
18 **unclassified misdemeanor as described in section 37 of this 2024 Act.**

19 “[*(b) Notwithstanding paragraph (a) of this subsection, unlawful possession*
20 *of hydrocodone is a Class A misdemeanor if:*]

21 “[*(A) The possession is a commercial drug offense under ORS 475.900*
22 *(1)(b); or*]

23 “[*(B) The person possesses 40 or more pills, tablets, capsules or user units*
24 *of a mixture or substance containing a detectable amount of hydrocodone.*]

25 **“SECTION 53.** ORS 475.824 is amended to read:

26 “475.824. (1) It is unlawful for any person knowingly or intentionally to
27 possess methadone unless the methadone was obtained directly from, or
28 pursuant to a valid prescription or order of, a practitioner while acting in
29 the course of professional practice, or except as otherwise authorized by ORS
30 475.005 to 475.285 and 475.752 to 475.980.

1 “(2)(a) Unlawful possession of methadone is [*a Class E violation*] **an un-**
2 **classified misdemeanor as described in section 37 of this 2024 Act.**

3 “(b) Notwithstanding paragraph (a) of this subsection, [*unlawful pos-*
4 *session of methadone is a Class A misdemeanor if the person possesses 40 or*
5 *more user units of a mixture or substance containing a detectable amount of*
6 *methadone.*]

7 “[*(c) Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful
8 possession of methadone is a Class C felony if the possession is a commercial
9 drug offense under ORS 475.900 (1)(b).

10 **“SECTION 54.** ORS 475.834 is amended to read:

11 “475.834. (1) It is unlawful for any person knowingly or intentionally to
12 possess oxycodone unless the oxycodone was obtained directly from, or pur-
13 suant to a valid prescription or order of, a practitioner while acting in the
14 course of professional practice, or except as otherwise authorized by ORS
15 475.005 to 475.285 and 475.752 to 475.980.

16 “(2)(a) Unlawful possession of oxycodone is [*a Class E violation*] **an un-**
17 **classified misdemeanor as described in section 37 of this 2024 Act.**

18 “(b) Notwithstanding paragraph (a) of this subsection, [*unlawful pos-*
19 *session of oxycodone is a Class A misdemeanor if the person possesses 40 or*
20 *more pills, tablets, capsules or user units of a mixture or substance containing*
21 *a detectable amount of oxycodone.*]

22 “[*(c) Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful
23 possession of oxycodone is a Class C felony if the possession is a commercial
24 drug offense under ORS 475.900 (1)(b).

25 **“SECTION 55.** ORS 475.854 is amended to read:

26 “475.854. (1) It is unlawful for any person knowingly or intentionally to
27 possess heroin.

28 “(2)(a) Unlawful possession of heroin is [*a Class E violation*] **an unclas-**
29 **sified misdemeanor as described in section 37 of this 2024 Act.**

30 “(b) Notwithstanding paragraph (a) of this subsection, [*unlawful pos-*

1 *session of heroin is a Class A misdemeanor if the person possesses one gram*
2 *or more of a mixture or substance containing a detectable amount of heroin.]*

3 “[*(c) Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful
4 possession of heroin is a Class B felony if:

5 “(A) The possession is a commercial drug offense under ORS 475.900 (1)(b);
6 or

7 “(B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

8 **“SECTION 56.** ORS 475.874 is amended to read:

9 “475.874. (1) It is unlawful for any person knowingly or intentionally to
10 possess 3,4-methylenedioxymethamphetamine.

11 “(2)(a) Unlawful possession of 3,4-methylenedioxymethamphetamine is [*a*
12 *Class E violation*] **an unclassified misdemeanor as described in section**
13 **37 of this 2024 Act.**

14 “(b) Notwithstanding paragraph (a) of this subsection, [*unlawful pos-*
15 *session of 3,4-methylenedioxymethamphetamine is a Class A misdemeanor if*
16 *the person possesses one gram or more or five or more pills, tablets or capsules*
17 *of a mixture or substance containing a detectable amount of:*]

18 “[*(A) 3,4-methylenedioxyamphetamine;*]

19 “[*(B) 3,4-methylenedioxymethamphetamine; or*]

20 “[*(C) 3,4-methylenedioxy-N-ethylamphetamine.*]

21 “[*(c) Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful
22 possession of 3,4-methylenedioxymethamphetamine is a Class B felony if:

23 “(A) The possession is a commercial drug offense under ORS 475.900 (1)(b);
24 or

25 “(B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

26 **“SECTION 57.** ORS 475.884 is amended to read:

27 “475.884. (1) It is unlawful for any person knowingly or intentionally to
28 possess cocaine unless the substance was obtained directly from, or pursuant
29 to, a valid prescription or order of a practitioner while acting in the course
30 of professional practice, or except as otherwise authorized by ORS 475.005

1 to 475.285 and 475.752 to 475.980.

2 “(2)(a) Unlawful possession of cocaine is [*a Class E violation*] **an un-**
3 **classified misdemeanor as described in section 37 of this 2024 Act.**

4 “(b) Notwithstanding paragraph (a) of this subsection, [*unlawful pos-*
5 *session of cocaine is a Class A misdemeanor if the person possesses two grams*
6 *or more of a mixture or substance containing a detectable amount of cocaine.*]

7 “[*(c) Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful
8 possession of cocaine is a Class C felony if:

9 “(A) The possession is a commercial drug offense under ORS 475.900 (1)(b);
10 or

11 “(B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

12 **“SECTION 58.** ORS 475.894 is amended to read:

13 “475.894. (1) It is unlawful for any person knowingly or intentionally to
14 possess methamphetamine unless the substance was obtained directly from,
15 or pursuant to, a valid prescription or order of a practitioner while acting
16 in the course of professional practice, or except as otherwise authorized by
17 ORS 475.005 to 475.285 and 475.752 to 475.980.

18 “(2)(a) Unlawful possession of methamphetamine is [*a Class E violation*]
19 **an unclassified misdemeanor as described in section 37 of this 2024**
20 **Act.**

21 “(b) Notwithstanding paragraph (a) of this subsection, [*unlawful pos-*
22 *session of methamphetamine is a Class A misdemeanor if the person possesses*
23 *two grams or more of a mixture or substance containing a detectable amount*
24 *of methamphetamine.*]

25 “[*(c) Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful
26 possession of methamphetamine is a Class C felony if:

27 “(A) The possession is a commercial drug offense under ORS 475.900 (1)(b);
28 or

29 “(B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

30 **“SECTION 58a.** ORS 161.570 is amended to read:

1 “161.570. (1) As used in this section, ‘nonperson felony’ has the meaning
2 given that term in the rules of the Oregon Criminal Justice Commission.

3 “(2) A district attorney may elect to treat a Class C nonperson felony or
4 a violation of ORS 475.752 [(7)(b)] **(7)**, 475.854 [(2)(c)] **(2)(b)** or 475.874
5 [(2)(c)] **(2)(b)** as a Class A misdemeanor. The election must be made by the
6 district attorney orally or in writing at the time of the first appearance of
7 the defendant. If a district attorney elects to treat a Class C felony or a vi-
8 olation of ORS 475.752 [(7)(b)] **(7)**, 475.854 [(2)(c)] **(2)(b)** or 475.874 [(2)(c)]
9 **(2)(b)** as a Class A misdemeanor under this subsection, the court shall amend
10 the accusatory instrument to reflect the charged offense as a Class A
11 misdemeanor.

12 “(3) If, at some time after the first appearance of a defendant charged
13 with a Class C nonperson felony or a violation of ORS 475.752 [(7)(b)] **(7)**,
14 475.854 [(2)(c)] **(2)(b)** or 475.874 [(2)(c)] **(2)(b)**, the district attorney and the
15 defendant agree to treat the charged offense as a Class A misdemeanor, the
16 court may allow the offense to be treated as a Class A misdemeanor by
17 stipulation of the parties.

18 “(4) If a Class C felony or a violation of ORS 475.752 [(7)(b)] **(7)**, 475.854
19 [(2)(c)] **(2)(b)** or 475.874 [(2)(c)] **(2)(b)** is treated as a Class A misdemeanor
20 under this section, the court shall clearly denominate the offense as a Class
21 A misdemeanor in any judgment entered in the matter.

22 “(5) If no election or stipulation is made under this section, the case
23 proceeds as a felony.

24 “(6) Before a district attorney may make an election under subsection (2)
25 of this section, the district attorney shall adopt written guidelines for de-
26 termining when and under what circumstances the election may be made.
27 The district attorney shall apply the guidelines uniformly.

28 “(7) Notwithstanding ORS 161.635, the fine that a court may impose upon
29 conviction of a misdemeanor under this section may not:

30 “(a) Be less than the minimum fine established by ORS 137.286 for a fel-

1 ony; or

2 “(b) Exceed the amount provided in ORS 161.625 for the class of felony
3 receiving Class A misdemeanor treatment.

4

5 “(Expungement)

6

7 “**SECTION 59.** ORS 137.225 is amended to read:

8 “137.225. (1)(a) At any time after the person becomes eligible as described
9 in paragraph (b) of this subsection, any person convicted of an offense who
10 has fully complied with and performed the sentence of the court for the of-
11 fense, and whose conviction is described in subsection (5) of this section, by
12 motion may apply to the court where the conviction was entered for entry
13 of an order setting aside the conviction. A person who is still under super-
14 vision as part of the sentence for the offense that is the subject of the motion
15 has not fully complied with or performed the sentence of the court.

16 “(b) A person is eligible to file a motion under paragraph (a) of this
17 subsection:

18 “(A) For a Class B felony, seven years from the date of conviction or the
19 release of the person from imprisonment for the conviction sought to be set
20 aside, whichever is later.

21 “(B) For a Class C felony, five years from the date of conviction or the
22 release of the person from imprisonment for the conviction sought to be set
23 aside, whichever is later.

24 “(C) For a Class A misdemeanor, **or an unclassified misdemeanor de-**
25 **scribed in section 37 of this 2024 Act,** three years from the date of con-
26 viction or the release of the person from imprisonment for the conviction
27 sought to be set aside, whichever is later.

28 “(D) For a Class B or Class C misdemeanor, a violation or the finding
29 of a person in contempt of court, one year from the date of conviction or
30 finding or the release of the person from imprisonment for the conviction or

1 finding sought to be set aside, whichever is later.

2 “(c) If no accusatory instrument is filed, at any time after 60 days from
3 the date the prosecuting attorney indicates that the state has elected not to
4 proceed with a prosecution or contempt proceeding, an arrested, cited or
5 charged person may apply to the court in the county in which the person
6 was arrested, cited or charged, for entry of an order setting aside the record
7 of the arrest, citation or charge.

8 “(d) At any time after an acquittal or a dismissal other than a dismissal
9 described in paragraph (c) of this subsection, an arrested, cited or charged
10 person may apply to the court in the county in which the person was ar-
11 rested, cited or charged, for entry of an order setting aside the record of the
12 arrest, citation or charge.

13 “(e) Notwithstanding paragraph (b) of this subsection, a person whose
14 sentence of probation was revoked may not apply to the court for entry of
15 an order setting aside the conviction for which the person was sentenced to
16 probation for a period of three years from the date of revocation or until the
17 person becomes eligible as described in paragraph (b) of this subsection,
18 whichever occurs later.

19 “(f) A person filing a motion under this section is not required to pay the
20 filing fee established under ORS 21.135.

21 “(2)(a) A copy of the motion shall be served upon the office of the prose-
22 cuting attorney who prosecuted the offense, or who had authority to prose-
23 cute the charge if there was no accusatory instrument filed. The prosecuting
24 attorney may object to a motion filed under subsection (1)(a) of this section
25 and shall notify the court and the person of the objection within 120 days
26 of the date the motion was filed with the court.

27 “(b) When a prosecuting attorney is served with a copy of a motion to set
28 aside a conviction under subsection (1)(a) of this section, the prosecuting
29 attorney shall provide a copy of the motion and notice of the hearing date
30 to the victim, if any, of the offense by mailing a copy of the motion and

1 notice to the victim's last-known address.

2 “(c) When a person makes a motion under this section, the person shall
3 forward to the Department of State Police a full set of the person's finger-
4 prints on a fingerprint card or in any other manner specified by the depart-
5 ment.

6 “(d) When a person makes a motion under subsection (1)(a) of this section,
7 the person must pay a fee to the Department of State Police for the purpose
8 of the department performing a criminal record check. The department shall
9 establish a fee in an amount not to exceed the actual cost of performing the
10 criminal record check. If the department is required to perform only one
11 criminal record check for the person, the department may only charge one
12 fee, regardless of the number of counties in which the person is filing a
13 motion to set aside a conviction, arrest, charge or citation under this section.
14 The department shall provide a copy of the results of the criminal record
15 check to the prosecuting attorney.

16 “(e) The prosecuting attorney may not charge the person a fee for per-
17 forming the requirements described in this section.

18 “(3)(a) If an objection is received to a motion filed under subsection (1)(a)
19 of this section, the court shall hold a hearing, and may require the filing of
20 such affidavits and may require the taking of such proofs as the court deems
21 proper. The court shall allow the victim to make a statement at the hearing.
22 If the person is otherwise eligible for relief under this section, the court
23 shall grant the motion and enter an order as described in paragraph (b) of
24 this subsection unless the court makes written findings, by clear and con-
25 vincing evidence, that the circumstances and behavior of the person, from
26 the date of the conviction the person is seeking to set aside to the date of
27 the hearing on the motion, do not warrant granting the motion due to the
28 circumstances and behavior creating a risk to public safety. When deter-
29 mining whether the person's circumstances and behavior create a risk to
30 public safety, the court may only consider criminal behavior, or violations

1 of regulatory law or administrative rule enforced by civil penalty or other
2 administrative sanction that relate to the character of the conviction sought
3 to be set aside. The court may not consider nonpunitive civil liability,
4 monetary obligations and motor vehicle violations. Upon granting the mo-
5 tion, the court shall enter an appropriate order containing the original arrest
6 or citation charge, the conviction charge, if different from the original, the
7 date of charge, the submitting agency and the disposition of the charge.
8 Upon the entry of the order, the person for purposes of the law shall be
9 deemed not to have been previously convicted, and the court shall issue an
10 order sealing the record of conviction and other official records in the case,
11 including the records of arrest, citation or charge.

12 “(b) The court shall grant a motion filed under subsection (1)(c) or (d) of
13 this section, or under subsection (1)(a) of this section if no objection to the
14 motion is received, and shall enter an appropriate order containing the ori-
15 ginal arrest or citation charge, the conviction charge, if applicable and dif-
16 ferent from the original, the date of charge, the submitting agency and the
17 disposition of the charge. Upon the entry of the order, the person for pur-
18 poses of the law shall be deemed not to have been previously convicted, ar-
19 rested, cited or charged, and the court shall issue an order sealing all official
20 records in the case, including the records of arrest, citation or charge,
21 whether or not the arrest, citation or charge resulted in a further criminal
22 proceeding.

23 “(4) The clerk of the court shall forward a certified copy of the order to
24 such agencies as directed by the court. A certified copy must be sent to the
25 Department of Corrections when the order concerns a conviction. Upon entry
26 of the order, the conviction, arrest, citation, charge or other proceeding shall
27 be deemed not to have occurred, and the person may answer accordingly any
28 questions relating to its occurrence.

29 “(5) The provisions of subsection (1)(a) of this section apply to a con-
30 viction for:

1 “(a) A Class B felony, except for a violation of ORS 166.429 or any crime
2 classified as a person felony as defined in the rules of the Oregon Criminal
3 Justice Commission.

4 “(b) Any misdemeanor, Class C felony or felony punishable as a
5 misdemeanor pursuant to ORS 161.705.

6 “(c) An offense constituting a violation under state law or local ordi-
7 nance.

8 “(d) An offense committed before January 1, 1972, that, if committed after
9 that date, would qualify for an order under this section.

10 “(e) The finding of a person in contempt of court.

11 “(6) Notwithstanding subsection (5) of this section, the provisions of sub-
12 section (1)(a) of this section do not apply to a conviction for:

13 “(a) Criminal mistreatment in the second degree under ORS 163.200 if the
14 victim at the time of the crime was 65 years of age or older.

15 “(b) Criminal mistreatment in the first degree under ORS 163.205 if the
16 victim at the time of the crime was 65 years of age or older, or when the
17 offense constitutes child abuse as defined in ORS 419B.005.

18 “(c) Endangering the welfare of a minor under ORS 163.575 (1)(a), when
19 the offense constitutes child abuse as defined in ORS 419B.005.

20 “(d) Criminally negligent homicide under ORS 163.145, when that offense
21 was punishable as a Class C felony.

22 “(e) Assault in the third degree under ORS 163.165 (1)(h).

23 “(f) Any sex crime, unless:

24 “(A) The sex crime is listed in ORS 163A.140 (1)(a) and:

25 “(i) The person has been relieved of the obligation to report as a sex
26 offender pursuant to a court order entered under ORS 163A.145 or 163A.150;
27 and

28 “(ii) The person has not been convicted of, found guilty except for insan-
29 ity of or found to be within the jurisdiction of the juvenile court based on
30 a crime for which the court is prohibited from setting aside the conviction

1 under this section; or

2 “(B) The sex crime constitutes a Class C felony and:

3 “(i) The person was under 16 years of age at the time of the offense;

4 “(ii) The person is:

5 “(I) Less than two years and 180 days older than the victim; or

6 “(II) At least two years and 180 days older, but less than three years and
7 180 days older, than the victim and the court finds that setting aside the
8 conviction is in the interests of justice and of benefit to the person and the
9 community;

10 “(iii) The victim’s lack of consent was due solely to incapacity to consent
11 by reason of being less than a specified age;

12 “(iv) The victim was at least 12 years of age at the time of the offense;

13 “(v) The person has not been convicted of, found guilty except for insanity
14 of or found to be within the jurisdiction of the juvenile court based on a
15 crime for which the court is prohibited from setting aside the conviction
16 under this section; and

17 “(vi) Each conviction or finding described in this subparagraph involved
18 the same victim.

19 “(7) Notwithstanding subsection (5) of this section, the provisions of sub-
20 section (1) of this section do not apply to:

21 “(a) A conviction for a state or municipal traffic offense.

22 “(b) A person convicted, within the following applicable time period im-
23 mediately preceding the filing of the motion pursuant to subsection (1) of
24 this section, of any other offense, excluding motor vehicle violations,
25 whether or not the other conviction is for conduct associated with the same
26 criminal episode that caused the arrest, citation, charge or conviction that
27 is sought to be set aside:

28 “(A) For a motion concerning a Class B felony, seven years.

29 “(B) For a motion concerning a Class C felony, five years.

30 “(C) For a motion concerning a Class A misdemeanor **or an unclassified**

1 **misdemeanor described in section 37 of this 2024 Act**, three years.

2 “(D) For a motion concerning a Class B or Class C misdemeanor a vio-
3 lation or a finding of contempt of court, one year.

4 “(c) A single violation, other than a motor vehicle violation, within the
5 time period specified in paragraph (b) of this subsection is not a conviction
6 under this subsection. Notwithstanding subsection (1) of this section, a
7 conviction that has been set aside under this section shall be considered for
8 the purpose of determining whether paragraph (b) of this subsection is ap-
9 plicable.

10 “(d) A person who at the time the motion authorized by subsection (1) of
11 this section is pending before the court is under charge of commission of any
12 crime.

13 “(8) The provisions of subsection (1)(c) or (d) of this section do not apply
14 to an arrest or citation for driving while under the influence of intoxicants
15 if the charge is dismissed as a result of the person’s successful completion
16 of a diversion agreement described in ORS 813.200.

17 “(9) The provisions of subsection (1) of this section apply to convictions,
18 arrests, citations and charges that occurred before, as well as those that
19 occurred after, September 9, 1971. There is no time limit for making an ap-
20 plication.

21 “(10) For purposes of any civil action in which truth is an element of a
22 claim for relief or affirmative defense, the provisions of subsection (3) of this
23 section providing that the conviction, arrest, citation, charge or other pro-
24 ceeding be deemed not to have occurred do not apply and a party may apply
25 to the court for an order requiring disclosure of the official records in the
26 case as may be necessary in the interest of justice.

27 “(11)(a) Upon motion of any prosecutor or defendant in a case involving
28 records sealed under this section, supported by affidavit showing good cause,
29 the court with jurisdiction may order the reopening and disclosure of any
30 records sealed under this section for the limited purpose of assisting the in-

1 vestigation of the movant. However, such an order has no other effect on the
2 orders setting aside the conviction or the arrest, citation or charge record.

3 “(b) Notwithstanding paragraph (a) of this subsection, when an arrest,
4 citation or charge described in subsection (1)(c) of this section is set aside,
5 a prosecuting attorney may, for the purpose of initiating a criminal pro-
6 ceeding within the statute of limitations, unseal the records sealed under
7 this section by notifying the court with jurisdiction over the charge, record
8 of arrest or citation. The prosecuting attorney shall notify the person who
9 is the subject of the records of the unsealing under this paragraph by sending
10 written notification to the person’s last known address.

11 “(12) The State Court Administrator shall create forms to be used
12 throughout the state for motions and proposed orders described in this sec-
13 tion.

14 “(13) As used in this section:

15 “(a) ‘Affidavit’ includes a declaration under penalty of perjury.

16 “(b) ‘Sex crime’ has the meaning given that term in ORS 163A.005.

17

18 **“(Repealing Class E Violation Provisions)”**

19

20 **“SECTION 60.** ORS 51.050 is amended to read:

21 “51.050. (1) Except as otherwise provided in this section, in addition to
22 the criminal jurisdiction of justice courts already conferred upon and exer-
23 cised by them, justice courts have jurisdiction of all offenses committed or
24 triable in their respective counties. The jurisdiction conveyed by this section
25 is concurrent with any jurisdiction that may be exercised by a circuit court
26 or municipal court.

27 “(2) In any justice court that has not become a court of record under ORS
28 51.025, a defendant charged with a misdemeanor shall be notified immediately
29 after entering a plea of not guilty of the right of the defendant to have the
30 matter transferred to the circuit court for the county where the justice court

1 is located. The election shall be made within 10 days after the plea of not
2 guilty is entered, and the justice shall immediately transfer the case to the
3 appropriate court.

4 “(3) A justice court does not have jurisdiction over the trial of any felony
5 or a designated drug-related misdemeanor as defined in ORS 423.478. [*A jus-*
6 *tice court does not have jurisdiction over Class E violations.*] Except as pro-
7 vided in ORS 51.037, a justice court does not have jurisdiction over offenses
8 created by the charter or ordinance of any city.

9 **“SECTION 61.** ORS 137.300 is amended to read:

10 “137.300. (1) The Criminal Fine Account is established in the General
11 Fund. Except as otherwise provided by law, all amounts collected in state
12 courts as monetary obligations in criminal actions shall be deposited by the
13 courts in the account. All moneys in the account are continuously appro-
14 priated to the Department of Revenue to be distributed by the Department
15 of Revenue as provided in this section. The Department of Revenue shall
16 keep a record of moneys transferred into and out of the account.

17 “(2) The Legislative Assembly shall first allocate moneys from the Crim-
18 inal Fine Account for the following purposes, in the following order of pri-
19 ority:

20 “(a) Allocations for public safety standards, training and facilities.

21 “(b) Allocations for criminal injuries compensation and assistance to
22 victims of crime and children reasonably suspected of being victims of crime.

23 “(c) Allocations for the forensic services provided by the Oregon State
24 Police, including, but not limited to, services of the Chief Medical Examiner.

25 “(d) Allocations for the maintenance and operation of the Law Enforce-
26 ment Data System.

27 “(3) After making allocations under subsection (2) of this section, the
28 Legislative Assembly shall allocate moneys from the Criminal Fine Account
29 for the following purposes:

30 “(a) Allocations to the Law Enforcement Medical Liability Account es-

1 tablished under ORS 414.815.

2 “(b) Allocations to the State Court Facilities and Security Account es-
3 tablished under ORS 1.178.

4 “(c) Allocations to the Department of Corrections for the purpose of
5 planning, operating and maintaining county juvenile and adult corrections
6 programs and facilities and drug and alcohol programs.

7 “(d) Allocations to the Oregon Health Authority for the purpose of grants
8 under ORS 430.345 for the establishment, operation and maintenance of al-
9 cohol and drug abuse prevention, early intervention and treatment services
10 provided through a county.

11 “(e) Allocations to the Oregon State Police for the purpose of the
12 enforcement of the laws relating to driving under the influence of
13 intoxicants.

14 “(f) Allocations to the Arrest and Return Account established under ORS
15 133.865.

16 “(g) Allocations to the Intoxicated Driver Program Fund established un-
17 der ORS 813.270.

18 “(h) Allocations to the State Court Technology Fund established under
19 ORS 1.012.

20 “[4] *Notwithstanding subsections (2) and (3) of this section, the Legislative*
21 *Assembly shall allocate all moneys deposited into the Criminal Fine Account*
22 *as payment of fines on Class E violations to the Drug Treatment and Recovery*
23 *Services Fund established under ORS 430.384.]*

24 “[5] (4) It is the intent of the Legislative Assembly that allocations from
25 the Criminal Fine Account under subsection (3) of this section be consistent
26 with historical funding of the entities, programs and accounts listed in sub-
27 section (3) of this section from monetary obligations imposed in criminal
28 proceedings. Amounts that are allocated under subsection (3)(c) of this sec-
29 tion shall be distributed to counties based on the amounts that were trans-
30 ferred to counties by circuit courts during the 2009-2011 biennium under the

1 provisions of ORS 137.308, as in effect January 1, 2011.

2 “[6] (5) Moneys in the Criminal Fine Account may not be allocated for
3 the payment of debt service obligations.

4 “[7] (6) The Department of Revenue shall deposit in the General Fund
5 all moneys remaining in the Criminal Fine Account after the distributions
6 listed in subsections (2)[,] **and** (3) [*and* (4)] of this section have been made.

7 “[8] (7) The Department of Revenue shall establish by rule a process for
8 distributing moneys in the Criminal Fine Account. The department may not
9 distribute more than one-eighth of the total biennial allocation to an entity
10 during a calendar quarter.

11 **“SECTION 62.** ORS 153.012 is amended to read:

12 “153.012. Violations are classified for the purpose of sentencing into the
13 following categories:

14 “(1) Class A violations.

15 “(2) Class B violations.

16 “(3) Class C violations.

17 “(4) Class D violations.

18 “[5] *Class E violations.*]

19 “[6] (5) Unclassified violations as described in ORS 153.015.

20 “[7] (6) Specific fine violations as described in ORS 153.015.

21 **“SECTION 63.** ORS 153.018 is amended to read:

22 “153.018. (1) The penalty for committing a violation is a fine. The law
23 creating a violation may impose other penalties in addition to a fine but may
24 not impose a term of imprisonment.

25 “(2) Except as otherwise provided by law, the maximum fine for a vio-
26 lation committed by an individual is:

27 “(a) \$2,000 for a Class A violation.

28 “(b) \$1,000 for a Class B violation.

29 “(c) \$500 for a Class C violation.

30 “(d) \$250 for a Class D violation.

1 “[(e) \$100 for a Class E violation.]”

2 “[(f)] (e) \$2,000 for a specific fine violation, or the maximum amount
3 otherwise established by law for the specific fine violation.

4 “(3) If a special corporate fine is specified in the law creating the vio-
5 lation, the sentence to pay a fine shall be governed by the law creating the
6 violation. Except as otherwise provided by law, if a special corporate fine is
7 not specified in the law creating the violation, the maximum fine for a vio-
8 lation committed by a corporation is:

9 “(a) \$4,000 for a Class A violation.

10 “(b) \$2,000 for a Class B violation.

11 “(c) \$1,000 for a Class C violation.

12 “(d) \$500 for a Class D violation.

13 “**SECTION 64.** ORS 153.019 is amended to read:

14 “153.019. (1) Except as provided in ORS 153.020, [153.062 and 430.391,] the
15 presumptive fines for violations are:

16 “(a) \$440 for a Class A violation.

17 “(b) \$265 for a Class B violation.

18 “(c) \$165 for a Class C violation.

19 “(d) \$115 for a Class D violation.

20 “[(e) \$100 for a Class E violation.]”

21 “(2) The presumptive fine for a specific fine violation is:

22 “(a) The amount specified by statute as the presumptive fine for the vio-
23 lation; or

24 “(b) An amount equal to the greater of 20 percent of the maximum fine
25 prescribed for the violation, or the minimum fine prescribed by statute for
26 the violation.

27 “(3) Any surcharge imposed under ORS 1.188 shall be added to and made
28 a part of the presumptive fine.

29 “**SECTION 65.** ORS 153.021 is amended to read:

30 “153.021. (1) Unless a specific minimum fine is prescribed for a violation,

1 and except as otherwise provided by law, the minimum fine a court shall
2 impose for a violation that is subject to the presumptive fines established
3 by ORS 153.019 (1) or 153.020 are as follows:

4 “(a) \$225 for a Class A violation.

5 “(b) \$135 for a Class B violation.

6 “(c) \$85 for a Class C violation.

7 “(d) \$65 for a Class D violation.

8 “[*(e) \$45 for a Class E violation.*]

9 “(2) Notwithstanding subsection (1) of this section, a court may waive
10 payment of the minimum fine described in this section, in whole or in part,
11 if the court determines that requiring payment of the minimum fine would
12 be inconsistent with justice in the case. In making its determination under
13 this subsection, the court shall consider:

14 “(a) The financial resources of the defendant and the burden that payment
15 of the minimum fine would impose, with due regard to the other obligations
16 of the defendant; and

17 “(b) The extent to which that burden could be alleviated by allowing the
18 defendant to pay the fine in installments or subject to other conditions set
19 by the court.

20 “(3) This section does not affect the manner in which a court imposes or
21 reduces monetary obligations other than fines.

22 “(4) The Department of Revenue or Secretary of State may audit any
23 court to determine whether the court is complying with the requirements of
24 this section. In addition, the Department of Revenue or Secretary of State
25 may audit any court to determine whether the court is complying with the
26 requirements of ORS 137.145 to 137.159 and 153.640 to 153.680. The Depart-
27 ment of Revenue or Secretary of State may file an action under ORS 34.105
28 to 34.240 to enforce the requirements of this section and of ORS 137.145 to
29 137.159 and 153.640 to 153.680.

30 “**SECTION 66.** ORS 153.064 is amended to read:

1 “153.064. (1) Except as provided in subsection (2) of this section, a warrant
2 for arrest may be issued against a person who fails to make a first appear-
3 ance on a citation for a violation, or fails to appear at any other subsequent
4 time set for trial or other appearance, only if the person is charged with
5 failure to appear in a violation proceeding under ORS 153.992.

6 “(2) If a person fails to make a first appearance on a citation for a vio-
7 lation [*other than a Class E violation*], or fails to appear at any other sub-
8 sequent time set for trial or other appearance on a violation [*other than a*
9 *Class E violation*], the court may issue an order that requires the defendant
10 to appear and show cause why the defendant should not be held in contempt.
11 The show cause order may be mailed to the defendant by certified mail, re-
12 turn receipt requested. If service cannot be accomplished by mail, the de-
13 fendant must be personally served. If the defendant is served and fails to
14 appear at the time specified in the show cause order, the court may issue
15 an arrest warrant for the defendant for the purpose of bringing the defendant
16 before the court.

17 **“SECTION 67.** ORS 153.992 is amended to read:

18 “153.992. (1) A person commits the offense of failure to appear in a vio-
19 lation proceeding if the person has been served with a citation issued under
20 this chapter for a violation [*other than a Class E violation*] and the person
21 knowingly fails to do any of the following:

22 “(a) Make a first appearance in the manner required by ORS 153.061
23 within the time allowed.

24 “(b) Make appearance at the time set for trial in the violation proceeding.

25 “(c) Appear at any other time required by the court or by law.

26 “(2) Failure to appear on a violation citation is a Class A misdemeanor.

27 **“SECTION 68.** ORS 221.339 is amended to read:

28 “221.339. (1) A municipal court has concurrent jurisdiction with circuit
29 courts and justice courts over all violations committed or triable in the city
30 where the court is located.

1 “(2) Except as provided in subsections (3) and (4) of this section, municipi-
2 pal courts have concurrent jurisdiction with circuit courts and justice courts
3 over misdemeanors committed or triable in the city. Municipal courts may
4 exercise the jurisdiction conveyed by this section without a charter provision
5 or ordinance authorizing that exercise.

6 “(3) Municipal courts have no jurisdiction over felonies[,] **or** designated
7 drug-related misdemeanors as defined in ORS 423.478 [*or Class E violations*].

8 “(4) A city may limit the exercise of jurisdiction over misdemeanors by
9 a municipal court under this section by the adoption of a charter provision
10 or ordinance, except that municipal courts must retain concurrent jurisdic-
11 tion with circuit courts over:

12 “(a) Misdemeanors created by the city’s own charter or by ordinances
13 adopted by the city, as provided in ORS 3.132; and

14 “(b) Traffic crimes as defined by ORS 801.545.

15 “(5) Subject to the powers and duties of the Attorney General under ORS
16 180.060, the city attorney has authority to prosecute a violation of any of-
17 fense created by statute that is subject to the jurisdiction of a municipal
18 court, including any appeal, if the offense is committed or triable in the city.
19 The prosecution shall be in the name of the state. The city attorney shall
20 have all powers of a district attorney in prosecutions under this subsection.

21 **“SECTION 69.** ORS 419C.370 is amended to read:

22 “419C.370. (1) The juvenile court may enter an order directing that all
23 cases involving:

24 “(a) Violation of a law or ordinance relating to the use or operation of
25 a motor vehicle, boating laws or game laws be waived to criminal or mu-
26 nicipal court;

27 “(b) An offense classified as a violation [*other than a Class E violation*]
28 under the laws of this state or a political subdivision of this state be waived
29 to municipal court if the municipal court has agreed to accept jurisdiction;
30 and

1 “(c) A misdemeanor that entails theft, destruction, tampering with or
2 vandalism of property be waived to municipal court if the municipal court
3 has agreed to accept jurisdiction.

4 “(2) Cases waived under subsection (1) of this section are subject to the
5 following:

6 “(a) That the criminal or municipal court prior to hearing a case, other
7 than a case involving a parking violation, in which the defendant is or ap-
8 pears to be under 18 years of age notify the juvenile court of that fact; and

9 “(b) That the juvenile court may direct that any such case be waived to
10 the juvenile court for further proceedings.

11 “(3)(a) When a person who has been waived under subsection (1)(c) of this
12 section is convicted of a property offense, the municipal court may impose
13 any sanction authorized for the offense except for incarceration. The munic-
14 ipal court shall notify the juvenile court of the disposition of the case.

15 “(b) When a person has been waived under subsection (1) of this section
16 and fails to appear as summoned or is placed on probation and is alleged to
17 have violated a condition of the probation, the juvenile court may recall the
18 case to the juvenile court for further proceedings. When a person has been
19 returned to juvenile court under this paragraph, the juvenile court may
20 proceed as though the person had failed to appear as summoned to the ju-
21 venile court or had violated a juvenile court probation order under ORS
22 419C.446.

23 “(4) Records of cases waived under subsection (1)(c) of this section are
24 juvenile records for purposes of expunction under ORS 419A.260 to 419A.271.

25 **“SECTION 70.** ORS 430.384 is amended to read:

26 “430.384. (1) The Drug Treatment and Recovery Services Fund is estab-
27 lished in the State Treasury, separate and distinct from the General Fund.
28 Interest earned by the Drug Treatment and Recovery Services Fund shall be
29 credited to the fund.

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

1 “(a) Moneys deposited into the fund pursuant to ORS 305.231;

2 “(b) Moneys appropriated or otherwise transferred to the fund by the
3 Legislative Assembly;

4 “(c) Moneys allocated from the Oregon Marijuana Account, pursuant to
5 ORS 475C.726 (3)(b); **and**

6 “[*(d) Moneys allocated from the Criminal Fine Account pursuant to ORS*
7 *137.300 (4); and*]

8 “[*(e)*] **(d)** All other moneys deposited into the fund from any source.

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

11 “(4)(a) Pursuant to subsection (2)(b) of this section, the Legislative As-
12 sembly shall appropriate or transfer to the fund an amount sufficient to fully
13 fund the grants program required by ORS 430.389.

14 “(b) The total amount deposited and transferred into the fund shall not
15 be less than \$57 million for the first year ORS 430.383 to 430.390 and 430.394
16 are in effect.

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

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

24 “(B) The annual increase, if any, in moneys distributed pursuant to ORS
25 475C.726 (3)(b).

26 “**SECTION 71.** ORS 475.235 is amended to read:

27 “475.235. (1) It is not necessary for the state to negate any exemption or
28 exception in ORS 475.005 to 475.285 and 475.752 to 475.980 in any complaint,
29 information, indictment or other pleading or in any trial, hearing or other
30 proceeding under ORS 475.005 to 475.285 and 475.752 to 475.980. The burden

1 of proof of any exemption or exception is upon the person claiming it.

2 “(2) In the absence of proof that a person is the duly authorized holder
3 of an appropriate registration or order form issued under ORS 475.005 to
4 475.285 and 475.752 to 475.980, the person is presumed not to be the holder
5 of the registration or form. The burden of proof is upon the person to rebut
6 the presumption.

7 “(3)(a) When a controlled substance is at issue in a criminal proceeding
8 before a grand jury, at a preliminary hearing, in a proceeding on a district
9 attorney’s information[, *during a proceeding on a Class E violation*] or for
10 purposes of an early disposition program, it is prima facie evidence of the
11 identity of the controlled substance if:

12 “(A) A sample of the controlled substance is tested using a presumptive
13 test for controlled substances;

14 “(B) The test is conducted by a law enforcement officer trained to use the
15 test or by a forensic scientist; and

16 “(C) The test is positive for the particular controlled substance.

17 “(b) When the identity of a controlled substance is established using a
18 presumptive test for purposes of a criminal proceeding before a grand jury,
19 a preliminary hearing, a proceeding on a district attorney’s information or
20 an early disposition program, the defendant, upon notice to the district at-
21 torney, may request that the controlled substance be sent to a state police
22 forensic laboratory for analysis. [*The defendant may not make a request under*
23 *this paragraph concerning a controlled substance at issue in a proceeding on*
24 *a Class E violation.*]

25 “(4) Notwithstanding any other provision of law, in all prosecutions in
26 which an analysis of a controlled substance or sample was conducted, a
27 certified copy of the analytical report signed by the director of a state police
28 forensic laboratory or the analyst or forensic scientist conducting the anal-
29 ysis shall be admitted as prima facie evidence of the results of the analytical
30 findings unless the defendant has provided notice of an objection in accord-

1 ance with subsection (5) of this section.

2 “(5) If the defendant intends to object at trial to the admission of a cer-
3 tified copy of an analytical report as provided in subsection (4) of this sec-
4 tion, not less than 15 days prior to trial the defendant shall file written
5 notice of the objection with the court and serve a copy on the district at-
6 torney.

7 “(6) As used in this section:

8 “(a) ‘Analyst’ means a person employed by the Department of State Police
9 to conduct analysis in forensic laboratories established by the department
10 under ORS 181A.150.

11 “(b) ‘Presumptive test’ includes, but is not limited to, chemical tests using
12 Marquis reagent, Duquenois-Levine reagent, Scott reagent system or modi-
13 fied Chen’s reagent.

14 **“SECTION 72.** ORS 430.389 is amended to read:

15 “430.389. (1) The Oversight and Accountability Council shall approve
16 grants and funding provided by the Oregon Health Authority in accordance
17 with this section to implement Behavioral Health Resource Networks and
18 increase access to community care. A Behavioral Health Resource Network
19 is an entity or collection of entities that individually or jointly provide some
20 or all of the services described in subsection (2)(e) of this section.

21 “(2)(a) The authority shall establish an equitable:

22 “(A) Process for applying for grants and funding by agencies or organ-
23 izations, whether government or community based, to establish Behavioral
24 Health Resource Networks for the purposes of immediately screening the
25 acute needs of individuals with substance use, including those who also have
26 a mental illness, and assessing and addressing any ongoing needs through
27 ongoing case management, harm reduction, treatment, housing and linkage
28 to other care and services.

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

1 “(b) Recipients of grants or funding must be licensed, certified or cre-
2 dentialled by the state, including certification under ORS 743A.168 (9), or
3 meet criteria prescribed by rule by the authority under ORS 430.390. A re-
4 cipient of a grant or funding under this subsection may not use the grant
5 or funding to supplant the recipient’s existing funding.

6 “(c) The council and the authority shall ensure that residents of each
7 county have access to all of the services described in paragraph (e) of this
8 subsection.

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

11 “(e) A network must have the capacity to provide the following services
12 and any other services specified by the authority by rule but no individual
13 participant in a network is required to provide all of the services:

14 “(A) Screening by certified addiction peer support or wellness specialists
15 or other qualified persons designated by the council to determine a client’s
16 need for immediate medical or other treatment to determine what acute care
17 is needed and where it can be best provided, identify other needs and link
18 the client to other appropriate local or statewide services, including treat-
19 ment for substance use and coexisting health problems, housing, employment,
20 training and child care. Networks shall provide this service 24 hours a day,
21 seven days a week, every calendar day of the year through a telephone line
22 or other means. Networks may rely on the statewide telephone hotline es-
23 tablished by the authority under ORS 430.391 for telephone screenings during
24 nonbusiness hours such as evenings, weekends and holidays. Notwithstand-
25 ing paragraph (c) of this subsection, only one grantee in each network within
26 each county is required to provide the screenings described in this subpara-
27 graph.

28 “(B) Comprehensive behavioral health needs assessment, including a sub-
29 stance use screening by a certified alcohol and drug counselor or other cre-
30 dentialled addiction treatment professional. The assessment shall prioritize

1 the self-identified needs of a client.

2 “(C) Individual intervention planning, case management and connection
3 to services. If, after the completion of a screening, a client indicates a desire
4 to address some or all of the identified needs, a case manager shall work
5 with the client to design an individual intervention plan. The plan must ad-
6 dress the client’s need for substance use treatment, coexisting health prob-
7 lems, housing, employment and training, child care and other services.

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

12 “(E) Assessment of the need for, and provision of, mobile or virtual out-
13 reach services to:

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

15 “(ii) Increase public awareness of network services.

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

18 “(G) Low-barrier substance use treatment.

19 “(H) Transitional and supportive housing for individuals with substance
20 use.

21 “(f) If an applicant for a grant or funding under this subsection is unable
22 to provide all of the services described in paragraph (e) of this subsection,
23 the applicant may identify how the applicant intends to partner with other
24 entities to provide the services, and the authority and the council may fa-
25 cilitate collaboration among applicants.

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

30 “(h) The networks must be adequately staffed to address the needs of

1 people with substance use within their regions as prescribed by the authority
2 by rule, including, at a minimum, at least one person in each of the following
3 categories:

4 “(A) Alcohol and drug counselor certified by the authority or other cre-
5 dentialized addiction treatment professional;

6 “(B) Case manager;

7 “(C) Addiction peer support specialist certified by the authority;

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

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

11 “(F) Youth support specialist certified by the authority.

12 “(i) Verification of a screening by a certified addiction peer support spe-
13 cialist, wellness specialist or other person in accordance with paragraph
14 (e)(A) of this subsection shall promptly be provided to the client by the en-
15 tity conducting the screening. If the client executes a valid release of in-
16 formation, the entity shall provide verification of the screening to the
17 authority or a contractor of the authority and the authority or the
18 authority’s contractor shall forward the verification [*to the court, in the*
19 *manner prescribed by the Chief Justice of the Supreme Court, to satisfy the*
20 *conditions for dismissal under ORS 153.062 or 475.237*] **to any entity the**
21 **client has authorized to receive the verification.**

22 “(3)(a) If moneys remain in the Drug Treatment and Recovery Services
23 Fund after the council has committed grants and funding to establish be-
24 havioral health resource networks serving every county in this state, the
25 council shall authorize grants and funding to other agencies or organiza-
26 tions, whether government or community based, and to the nine federally
27 recognized tribes in this state and service providers that are affiliated with
28 the nine federally recognized tribes in this state to increase access to one
29 or more of the following:

30 “(A) Low-barrier substance use treatment that is evidence-informed,

1 trauma-informed, culturally specific, linguistically responsive, person-
2 centered and nonjudgmental;

3 “(B) Peer support and recovery services;

4 “(C) Transitional, supportive and permanent housing for persons with
5 substance use;

6 “(D) Harm reduction interventions including, but not limited to, overdose
7 prevention education, access to short-acting opioid antagonists, as defined in
8 ORS 689.800, and sterile syringes and stimulant-specific drug education and
9 outreach; or

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

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

15 “(4) In awarding grants and funding under subsections (1) and (3) of this
16 section, the council shall:

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

18 “(A) Historically underserved populations; and

19 “(B) Culturally specific and linguistically responsive services.

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

22 “(c) Consider available regional data related to the substance use treat-
23 ment needs and the access to culturally specific and linguistically responsive
24 services in communities in this state.

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

27 “(5) The council shall require any government entity that applies for a
28 grant to specify in the application details regarding subgrantees and how the
29 government entity will fund culturally specific organizations and culturally
30 specific services. A government entity receiving a grant must make an ex-

1 plicit commitment not to supplant or decrease any existing funding used to
2 provide services funded by the grant.

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

9 “(7) Services provided by grantees, including services provided by a Be-
10 havioral Health Resource Network, shall be free of charge to the clients re-
11 ceiving the services. Grantees in each network shall seek reimbursement
12 from insurance issuers, the medical assistance program or any other third
13 party responsible for the cost of services provided to a client and grants and
14 funding provided by the council or the authority under this section may be
15 used for copayments, deductibles or other out-of-pocket costs incurred by the
16 client for the services.

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

20 **“SECTION 73.** ORS 670.280 is amended to read:

21 “670.280. (1) As used in this section:

22 “(a) ‘License’ includes a registration, certification or permit.

23 “(b) ‘Licensee’ includes a registrant or a holder of a certification or per-
24 mit.

25 “(2) Except as provided in ORS 342.143 (3) or 342.175 (3), a licensing
26 board, commission or agency may not deny, suspend or revoke an occupa-
27 tional or professional license solely for the reason that the applicant or
28 licensee has been convicted of a crime, but it may consider the relationship
29 of the facts which support the conviction and all intervening circumstances
30 to the specific occupational or professional standards in determining the

1 fitness of the person to receive or hold the license. [*There is a rebuttable*
2 *presumption as to each individual applicant or licensee that an existing or*
3 *prior conviction for conduct that has been classified or reclassified as a Class*
4 *E violation does not make an applicant for an occupational or professional li-*
5 *cense or a licensee with an occupational or professional license unfit to receive*
6 *or hold the license.*]

7 “(3) Except as provided in ORS 342.143 (3) and 342.175 (3), a licensing
8 board, commission or agency may deny an occupational or professional li-
9 cense or impose discipline on a licensee based on conduct that is not
10 undertaken directly in the course of the licensed activity, but that is sub-
11 stantially related to the fitness and ability of the applicant or licensee to
12 engage in the activity for which the license is required. In determining
13 whether the conduct is substantially related to the fitness and ability of the
14 applicant or licensee to engage in the activity for which the license is re-
15 quired, the licensing board, commission or agency shall consider the re-
16 lationship of the facts with respect to the conduct and all intervening
17 circumstances to the specific occupational or professional standards. [*There*
18 *is a rebuttable presumption as to each individual applicant or licensee that an*
19 *existing or prior conviction for conduct that has been classified or reclassified*
20 *as a Class E violation is not related to the fitness and ability of the applicant*
21 *or licensee to engage in the activity for which the license is required.*]

22 “**SECTION 74.** ORS 430.392, as amended by section 11, chapter 248,
23 Oregon Laws 2023, is amended to read:

24 “430.392. [(1) *The Division of Audits of the office of the Secretary of State*
25 *shall conduct performance audits and financial reviews as provided in this*
26 *section, regarding the uses of the Drug Treatment and Recovery Services Fund*
27 *and the effectiveness of the fund in achieving the purposes of the fund and the*
28 *policy objectives of ORS 430.383. Recipients of grants or funds under ORS*
29 *430.389 shall keep accurate books, records and accounts that are subject to in-*
30 *spection and audit by the division.*]

1 “[2] *The division shall monitor and report on the progress in implementing*
2 *any recommendations made in the audit or financial review. The division shall*
3 *follow up on recommendations as part of recurring audit work or as an activity*
4 *separate from other audit activity. When following up on recommendations, the*
5 *division may request from the appropriate agency evidence of*
6 *implementation.*]

7 “[3] *The audits set forth in this section shall be conducted pursuant to the*
8 *provisions of ORS chapter 297, except to the extent any provision of ORS*
9 *chapter 297 conflicts with any provision of ORS 293.665 and 305.231 and*
10 *430.383 to 430.390 and 430.394, in which case the provisions of ORS 293.665*
11 *and 305.231 and 430.383 to 430.390 and 430.394 shall control.*]

12 “[4] *The division shall conduct periodic performance audits and financial*
13 *reviews pursuant to the division’s annual audit plan and taking into consid-*
14 *eration the risks of the program.*]

15 **“(1) The Division of Audits of the office of the Secretary of State**
16 **shall conduct performance audits and financial reviews as provided in**
17 **this section, regarding the uses of the Drug Treatment and Recovery**
18 **Services Fund and the effectiveness of the fund in achieving the pur-**
19 **poses of the fund and the policy objectives of ORS 430.383. Recipients**
20 **of grants or funds under ORS 430.389 shall keep accurate books, re-**
21 **ords and accounts that are subject to inspection and audit by the di-**
22 **vision.**

23 **“(2) The division shall monitor and report on the progress in im-**
24 **plementing any recommendations made in the audit or financial re-**
25 **view. The division shall follow up on recommendations as part of**
26 **recurring audit work or as an activity separate from other audit ac-**
27 **tivity. When following up on recommendations, the division may re-**
28 **quest from the appropriate agency evidence of implementation.**

29 **“(3) The audits set forth in this section shall be conducted pursuant**
30 **to the provisions of ORS chapter 297, except to the extent any pro-**

1 vision of ORS chapter 297 conflicts with any provision of ORS 293.665
2 and 305.231 and 430.383 to 430.390 and 430.394, in which case the pro-
3 visions of ORS 293.665 and 305.231 and 430.383 to 430.390 and 430.394 shall
4 control.

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

6 “(a) Real-time audit, as prescribed by the division, which shall in-
7 clude an assessment of the relationship between the Oversight and
8 Accountability Council and the Oregon Health Authority, the re-
9 lationship between the council and recipients of grants or funding and
10 the structural integrity of ORS 293.665 and 305.231 and 430.383 to 430.390
11 and 430.394, including but not limited to assessing:

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

14 “(B) Whether the rules adopted by the council are clear and func-
15 tioning properly.

16 “(C) Whether the council has sufficient authority and independence
17 to achieve the council’s mission.

18 “(D) Whether the authority is fulfilling the authority’s duties under
19 ORS 430.384, 430.387, 430.390 and 430.391.

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

22 “(F) Whether there are opportunities to expand collaboration be-
23 tween the council and state agencies.

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

26 “(H) Who is providing the data.

27 “(I) Other areas identified by the division.

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

30 “(A) Whether grants and funding are going to organizations that

1 are culturally responsive and linguistically specific, including an as-
2 sessment of:

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

5 “(ii) The applicants that were denied and why.

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

8 “(iv) For government entities receiving grants or funding under
9 ORS 430.389, the government entities’ subgrantees and whether the
10 governmental entity supplanted or decreased any local funding dedi-
11 cated to the same services after receiving grants or funds under ORS
12 430.389.

13 “(v) What proportion of grants or funds received by grantees and
14 others under ORS 430.389 was devoted to administrative costs.

15 “(B) The organizations and agencies receiving grants or funding
16 under ORS 430.389 and:

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

19 “(ii) The amount each organization and agency received.

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

22 “(iv) The amount of moneys from the fund that were used to ad-
23 minister the programs selected by the council.

24 “(v) The moneys that remained in the Drug Treatment and Recov-
25 ery Services Fund after grants and funding were disbursed.

26 “(5) No later than December 31, 2025, the division shall conduct a
27 performance audit, which must include an assessment of the follow-
28 ing:

29 “(a) All relevant data regarding the implementation of ORS 153.062
30 and 430.391, including demographic information on individuals who

1 receive citations subject to ORS 153.062 and 430.391 and whether the
2 citations resulted in connecting the individuals with treatment.

3 **“(b) The functioning of:**

4 **“(A) The telephone hotline operated by the authority;**

5 **“(B) Entities providing verification of screenings under ORS 430.389;**
6 **and**

7 **“(C) The grants and funding systems between the council, the au-**
8 **thority and recipients of grants or funding, including by gathering**
9 **information about which entities are receiving grants or funding and**
10 **what the grants or funding are used for, the process of applying for**
11 **grants or funding and whether the process is conducive to obtaining**
12 **qualified applicants for grants or funding who are from communities**
13 **of color.**

14 **“(c) Disparities shown by demographic data and whether the cita-**
15 **tion data reveals a disproportionate use of citations in communities**
16 **most impacted by the war on drugs.**

17 **“(d) Whether ORS 153.062, 430.389 and 430.391 reduce the involve-**
18 **ment in the criminal justice system of individuals with substance use.**

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

22 **“(f) The efficacy of issuing citations as a method of connecting in-**
23 **dividuals to services.**

24 **“(g) The role of the implementation of ORS 430.383 to 430.390 and**
25 **430.394 in reducing overdose rates.**

26 **“(h) Outcomes for individuals receiving treatment and other social**
27 **services under ORS 430.389, including, but not limited to, the follow-**
28 **ing:**

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

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

3 “(ii) The number of culturally specific providers increased.

4 “(iii) Access to harm reduction services has increased.

5 “(iv) More individuals are accessing treatment than they were be-
6 fore December 3, 2020.

7 “(v) Access to housing for individuals with substance use has in-
8 creased.

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

11 “(i) The outcomes of each network or recipient, including but not
12 limited to the number of clients with substance use receiving services
13 from each network or recipient, the average duration of client partic-
14 ipation and client outcomes.

15 “(ii) The number of individuals seeking assistance from the network
16 or recipients who are denied or not connected to substance use treat-
17 ment and other services, and the reasons for the denials.

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

21 “(iv) Whether average times to access services to which clients are
22 referred, such as housing or medically assisted treatment, have de-
23 creased over time since December 3, 2020.

24 “(v) Demographic data on clients served by Behavioral Health Re-
25 source Networks, including self-reported demographic data on race,
26 ethnicity, gender and age.

27 “(i) Each recipient of a grant or funding.

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

30 “(6) The division shall conduct periodic performance audits and fi-

1 **nancial reviews pursuant to the division’s annual audit plan and tak-**
2 **ing into consideration the risks of the program.**

3 **“SECTION 75.** ORS 430.392, as amended by section 11, chapter 248,
4 Oregon Laws 2023, and section 74 of this 2024 Act, is amended to read:

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

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

18 *“[(3) The audits set forth in this section shall be conducted pursuant to the*
19 *provisions of ORS chapter 297, except to the extent any provision of ORS*
20 *chapter 297 conflicts with any provision of ORS 293.665 and 305.231 and*
21 *430.383 to 430.390 and 430.394, in which case the provisions of ORS 293.665*
22 *and 305.231 and 430.383 to 430.390 and 430.394 shall control.]*

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

24 *“[(a) Real-time audit, as prescribed by the division, which shall include an*
25 *assessment of the relationship between the Oversight and Accountability*
26 *Council and the Oregon Health Authority, the relationship between the council*
27 *and recipients of grants or funding and the structural integrity of ORS 293.665*
28 *and 305.231 and 430.383 to 430.390 and 430.394, including but not limited to*
29 *assessing:]*

30 *“[(A) Whether the organizational structure of the council contains conflicts*

1 *or problems.]*

2 *“(B) Whether the rules adopted by the council are clear and functioning*
3 *properly.]*

4 *“(C) Whether the council has sufficient authority and independence to*
5 *achieve the council’s mission.]*

6 *“(D) Whether the authority is fulfilling the authority’s duties under ORS*
7 *430.384, 430.387, 430.390 and 430.391.]*

8 *“(E) Whether there are conflicts of interest in the process of awarding*
9 *grants or funding.]*

10 *“(F) Whether there are opportunities to expand collaboration between the*
11 *council and state agencies.]*

12 *“(G) Whether barriers exist in data collection and evaluation*
13 *mechanisms.]*

14 *“(H) Who is providing the data.]*

15 *“(I) Other areas identified by the division.]*

16 *“(b) Financial review, which shall include an assessment of the*
17 *following:]*

18 *“(A) Whether grants and funding are going to organizations that are cul-*
19 *turally responsive and linguistically specific, including an assessment of:]*

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

22 *“(ii) The applicants that were denied and why.]*

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

25 *“(iv) For government entities receiving grants or funding under ORS*
26 *430.389, the government entities’ subgrantees and whether the governmental*
27 *entity supplanted or decreased any local funding dedicated to the same services*
28 *after receiving grants or funds under ORS 430.389.]*

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

1 *“(B) The organizations and agencies receiving grants or funding under*
2 *ORS 430.389 and:]*

3 *“(i) Which of the organizations and agencies are Behavioral Health Re-*
4 *source Network entities.]*

5 *“(ii) The amount each organization and agency received.]*

6 *“(iii) The total number of organizations and agencies that applied for*
7 *grants or funding.]*

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

10 *“(v) The moneys that remained in the Drug Treatment and Recovery Ser-*
11 *vices Fund after grants and funding were disbursed.]*

12 *“(5) No later than December 31, 2025, the division shall conduct a per-*
13 *formance audit, which must include an assessment of the following:]*

14 *“(a) All relevant data regarding the implementation of ORS 153.062 and*
15 *430.391, including demographic information on individuals who receive cita-*
16 *tions subject to ORS 153.062 and 430.391 and whether the citations resulted*
17 *in connecting the individuals with treatment.]*

18 *“(b) The functioning of:]*

19 *“(A) The telephone hotline operated by the authority;]*

20 *“(B) Entities providing verification of screenings under ORS 430.389;*
21 *and]*

22 *“(C) The grants and funding systems between the council, the authority*
23 *and recipients of grants or funding, including by gathering information about*
24 *which entities are receiving grants or funding and what the grants or funding*
25 *are used for, the process of applying for grants or funding and whether the*
26 *process is conducive to obtaining qualified applicants for grants or funding*
27 *who are from communities of color.]*

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

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

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

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

7 “(g) The role of the implementation of ORS 430.383 to 430.390 and 430.394
8 in reducing overdose rates.]

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

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

13 “(i) The number of drug and alcohol treatment service providers
14 increased.]

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

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

17 “(iv) More individuals are accessing treatment than they were before De-
18 cember 3, 2020.]

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

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

22 “(i) The outcomes of each network or recipient, including but not limited
23 to the number of clients with substance use receiving services from each net-
24 work or recipient, the average duration of client participation and client out-
25 comes.]

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

29 “(iii) The average time it takes for clients to access services and fulfill
30 their individual intervention plan and the reason for any delays, such as

1 *waiting lists at referred services.]*

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

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

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

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

11 *“[(6) The division shall conduct periodic performance audits and financial*
12 *reviews pursuant to the division’s annual audit plan and taking into consid-*
13 *eration the risks of the program.]*

14 **“(1) The Division of Audits of the office of the Secretary of State**
15 **shall conduct performance audits and financial reviews as provided in**
16 **this section, regarding the uses of the Drug Treatment and Recovery**
17 **Services Fund and the effectiveness of the fund in achieving the pur-**
18 **poses of the fund and the policy objectives of ORS 430.383. Recipients**
19 **of grants or funds under ORS 430.389 shall keep accurate books, re-**
20 **ords and accounts that are subject to inspection and audit by the di-**
21 **vision.**

22 **“(2) The division shall monitor and report on the progress in im-**
23 **plementing any recommendations made in the audit or financial re-**
24 **view. The division shall follow up on recommendations as part of**
25 **recurring audit work or as an activity separate from other audit ac-**
26 **tivity. When following up on recommendations, the division may re-**
27 **quest from the appropriate agency evidence of implementation.**

28 **“(3) The audits set forth in this section shall be conducted pursuant**
29 **to the provisions of ORS chapter 297, except to the extent any pro-**
30 **vision of ORS chapter 297 conflicts with any provision of ORS 293.665**

1 and 305.231 and 430.383 to 430.390 and 430.394, in which case the pro-
2 visions of ORS 293.665 and 305.231 and 430.383 to 430.390 and 430.394 shall
3 control.

4 “(4) The division shall conduct periodic performance audits and fi-
5 nancial reviews pursuant to the division’s annual audit plan and tak-
6 ing into consideration the risks of the program.

7 “SECTION 76. The amendments to ORS 430.392 by section 75 of this
8 2024 Act become operative on January 2, 2026.

9 “SECTION 77. ORS 153.043, 153.062 and 475.237 and section 15, chap-
10 ter 248, Oregon Laws 2023, are repealed.

11

12

“EXPANSION OF WELFARE HOLDS

13

14 “SECTION 78. ORS 430.399 is amended to read:

15 “430.399. (1) Any person who is intoxicated or under the influence of
16 controlled substances in a public place may be sent home or taken to a so-
17 bering facility or to a treatment facility by a police officer. If the person is
18 incapacitated, the person shall be taken by the police officer to an appro-
19 priate treatment facility or sobering facility. If the health of the person ap-
20 pears to be in immediate danger, or the police officer has reasonable cause
21 to believe the person is dangerous to self or to any other person, the person
22 shall be taken by the police officer to an appropriate treatment facility or
23 sobering facility. A person shall be deemed incapacitated when in the opinion
24 of the police officer the person is unable to make a rational decision as to
25 acceptance of assistance.

26 “(2) When a person is taken to a treatment facility, the director of the
27 treatment facility shall determine whether the person shall be admitted as
28 a patient, referred to another treatment facility or a sobering facility or de-
29 nied referral or admission. If the person is incapacitated or the health of the
30 person appears to be in immediate danger, or if the director has reasonable

1 cause to believe the person is dangerous to self or to any other person, the
2 person must be admitted. The person shall be discharged within [48] **72** hours
3 unless the person has applied for voluntary admission to the treatment fa-
4 cility.

5 “(3) When a person is taken to a sobering facility, the staff of the sober-
6 ing facility shall, consistent with the facility’s comprehensive written poli-
7 cies and procedures, determine whether or not the person shall be admitted
8 into the sobering facility. A person who is admitted shall be discharged from
9 the sobering facility within 24 hours.

10 “(4) In the absence of any appropriate treatment facility or sobering fa-
11 cility, or if a sobering facility determines that a person should not be ad-
12 mitted to the sobering facility, an intoxicated person or a person under the
13 influence of controlled substances who would otherwise be taken by the po-
14 lice officer to a treatment facility or sobering facility may be taken to the
15 city or county jail where the person may be held until no longer intoxicated,
16 under the influence of controlled substances or incapacitated.

17 “(5) An intoxicated person or person under the influence of controlled
18 substances, when taken into custody by the police officer for a criminal of-
19 fense, shall immediately be taken to the nearest appropriate treatment fa-
20 cility when the condition of the person requires emergency medical
21 treatment.

22 “(6) The records of a person at a treatment facility or sobering facility
23 may not, without the person’s consent, be revealed to any person other than
24 the director and staff of the treatment facility or sobering facility. A person’s
25 request that no disclosure be made of admission to a treatment facility or
26 sobering facility shall be honored unless the person is incapacitated or dis-
27 closure of admission is required by ORS 430.397.

28

29

“LOCAL AUTHORITY

30

1 **“SECTION 79. (1) A political subdivision in this state may enact a**
2 **local law, ordinance or regulation prohibiting or restricting any of the**
3 **following conduct, including but not limited to making any of the**
4 **following conduct a criminal offense:**

5 **“(a) Public intoxication or being under the influence of controlled**
6 **substances in public;**

7 **“(b) Public drinking of alcohol;**

8 **“(c) Public use of any drug that is unlawfully possessed under fed-**
9 **eral law;**

10 **“(d) Disorderly conduct related to the use of alcohol or controlled**
11 **substances; or**

12 **“(e) Trespassing on public property while using alcohol or con-**
13 **trolled substances, or while intoxicated or under the influence of con-**
14 **trolled substances.**

15 **“(2) As used in this section, ‘controlled substance’ and ‘drug’ have**
16 **the meanings given those terms in ORS 475.005.**

17 **“SECTION 80. ORS 430.402 is repealed.**

18 **“SECTION 81. ORS 430.306 is amended to read:**

19 **“430.306. As used in ORS 430.262, 430.315, 430.335, 430.342, 430.397, 430.399,**
20 **430.401, [430.402,] 430.420 and 430.630, unless the context requires otherwise:**

21 **“(1) ‘Alcoholic’ means any person who has lost the ability to control the**
22 **use of alcoholic beverages, or who uses alcoholic beverages to the extent that**
23 **the health of the person or that of others is substantially impaired or en-**
24 **dangered or the social or economic function of the person is substantially**
25 **disrupted. An alcoholic may be physically dependent, a condition in which**
26 **the body requires a continuing supply of alcohol to avoid characteristic**
27 **withdrawal symptoms, or psychologically dependent, a condition character-**
28 **ized by an overwhelming mental desire for continued use of alcoholic**
29 **beverages.**

30 **“(2) ‘Detoxification center’ means a publicly or privately operated profit**

1 or nonprofit facility approved by the Oregon Health Authority that provides
2 emergency care or treatment for alcoholics or drug-dependent persons.

3 “(3) ‘Director of the treatment facility’ means the person in charge of
4 treatment and rehabilitation programs at a treatment facility.

5 “(4) ‘Drug-dependent person’ means one who has lost the ability to control
6 the personal use of controlled substances or other substances with abuse
7 potential, or who uses such substances or controlled substances to the extent
8 that the health of the person or that of others is substantially impaired or
9 endangered or the social or economic function of the person is substantially
10 disrupted. A drug-dependent person may be physically dependent, a condition
11 in which the body requires a continuing supply of a drug or controlled sub-
12 stance to avoid characteristic withdrawal symptoms, or psychologically de-
13 pendent, a condition characterized by an overwhelming mental desire for
14 continued use of a drug or controlled substance.

15 “(5) ‘Halfway house’ means a publicly or privately operated profit or
16 nonprofit, residential facility approved by the authority that provides
17 rehabilitative care and treatment for alcoholics or drug-dependent persons.

18 “(6) ‘Local planning committee’ means a local planning committee for al-
19cohol and drug prevention and treatment services appointed or designated
20 by the county governing body under ORS 430.342.

21 “(7) ‘Police officer’ means a member of a law enforcement unit who is
22 employed on a part-time or full-time basis as a peace officer, commissioned
23 by a city, a county or the Department of State Police and responsible for
24 enforcing the criminal laws of this state and any person formally deputized
25 by the law enforcement unit to take custody of a person who is intoxicated
26 or under the influence of controlled substances.

27 “(8) ‘Sobering facility’ means a facility that meets all of the following
28 criteria:

29 “(a) The facility operates for the purpose of providing to individuals who
30 are acutely intoxicated a safe, clean and supervised environment until the

1 individuals are no longer acutely intoxicated.

2 “(b) The facility contracts with or is affiliated with a treatment program
3 or a provider approved by the authority to provide addiction treatment, and
4 the contract or affiliation agreement includes, but is not limited to, case
5 consultation, training and advice and a plan for making referrals to ad-
6 diction treatment.

7 “(c) The facility, in consultation with the addiction treatment program
8 or provider, has adopted comprehensive written policies and procedures in-
9 corporating best practices for the safety of intoxicated individuals, employees
10 of the facility and volunteers at the facility.

11 “(d) The facility is registered with the Oregon Health Authority under
12 ORS 430.262.

13 “(9) ‘Treatment facility’ includes outpatient facilities, inpatient facilities
14 and other facilities the authority determines suitable and that provide ser-
15 vices that meet minimum standards established under ORS 430.357, any of
16 which may provide diagnosis and evaluation, medical care, detoxification,
17 social services or rehabilitation for alcoholics or drug-dependent persons and
18 which operate in the form of a general hospital, a state hospital, a foster
19 home, a hostel, a clinic or other suitable form approved by the authority.

20 **“SECTION 82.** ORS 430.401 is amended to read:

21 “430.401. (1) A police officer, physician, naturopathic physician, physician
22 assistant, nurse practitioner, judge, treatment facility, treatment facility
23 staff member or sobering facility that is registered with the Oregon Health
24 Authority under ORS 430.262 based on a written request for registration re-
25 ceived by the authority before January 1, 2016, or the staff of the sobering
26 facility, may not be held criminally or civilly liable for actions pursuant to
27 ORS 430.315, 430.335[,] **and** 430.397 to 430.401 [*and 430.402*] provided the
28 actions are in good faith, on probable cause and without malice.

29 “(2) A sobering facility registered with the authority under ORS 430.262
30 based on a written request for registration received by the authority on or

1 after January 1, 2016, and the staff of the sobering facility, may not be held
2 criminally or civilly liable for actions pursuant to ORS 430.315, 430.335[,]
3 **and** 430.397 to 430.401 [*and* 430.402] provided the actions are in good faith,
4 on probable cause and without gross negligence.

5

6

“FORENSIC DRUG TESTING STUDY

7

8 **“SECTION 83. (1) The Department of State Police shall study ways**
9 **to expedite forensic testing of controlled substances, with a focus on**
10 **expediting testing to determine whether controlled substances were**
11 **the cause of or otherwise involved in the death of a person.**

12 **“(2) The department shall provide the results of the study, including**
13 **any recommended legislative changes, in a report to the appropriate**
14 **interim committees of the Legislative Assembly in the manner pro-**
15 **vided under ORS 192.245 no later than January 31, 2025.**

16 **“SECTION 84. Section 83 of this 2024 Act is repealed on January 2,**
17 **2026.**

18

“MEDICATIONS FOR OPIOID USE DISORDER GRANT PROGRAM

20

21 **“SECTION 85. As used in sections 85 to 91 of this 2024 Act:**

22 **“(1) ‘Commission’ means the Oregon Criminal Justice Commission.**

23 **“(2) ‘Local correctional facility’ has the meaning given that term**
24 **in ORS 169.005.**

25 **“(3) ‘Tribal correctional facility’ means a jail or prison in Oregon**
26 **that is operated by a federally recognized tribe and confines persons**
27 **for more than 36 hours.**

28 **“SECTION 86. (1) The Oregon Jail-Based Medications for Opioid Use**
29 **Disorder Grant Program is established in the Oregon Criminal Justice**
30 **Commission to provide opioid use disorder treatment and transition**

1 **planning services to persons in custody in local correctional facilities**
2 **and tribal correctional facilities.**

3 **“(2) The commission, in collaboration with the Oregon Health Au-**
4 **thority, shall administer the grant program. At minimum, the com-**
5 **mission and authority shall collaborate to provide grant recipients**
6 **support with technical assistance and best practices.**

7 **“SECTION 87. (1) The Oregon Criminal Justice Commission shall**
8 **award grants to cities and counties in Oregon that operate a local**
9 **correctional facility and to federally recognized tribes in Oregon that**
10 **operate a tribal correctional facility.**

11 **“(2) Applicants may submit an individual application or a joint ap-**
12 **plication in partnership with other local correctional facilities or tribal**
13 **correctional facilities.**

14 **“(3) At least 10 percent of total moneys awarded to grant recipients**
15 **must be awarded to local correctional facilities in rural areas, as de-**
16 **finied by the commission by rule, or tribal correctional facilities. If any**
17 **amount of the 10 percent is not awarded during an initial application**
18 **cycle, the remaining amount may be awarded to any otherwise eligible**
19 **local correctional facility or tribal correctional facility under a sup-**
20 **plemental application cycle.**

21 **“(4) The commission may enter a contract with a third party to**
22 **provide statewide technical assistance to grant recipients.**

23 **“(5) The commission shall consider geographic equity when award-**
24 **ing grant funds.**

25 **“SECTION 88. Moneys awarded to grant recipients under section 87**
26 **of this 2024 Act may be used to:**

27 **“(1) Provide medication, telemedicine or any other reasonable**
28 **treatment to persons in custody with an opioid use disorder.**

29 **“(2) Develop or operate mobile or nonmobile opioid treatment units.**

30 **“(3) Administer screenings for opioid use disorder or risk of acute**

1 **withdrawal.**

2 **“(4) Facilitate transition planning services for persons in custody**
3 **who seek or receive opioid use disorder treatment.**

4 **“(5) Undertake any other actions reasonably calculated to mitigate**
5 **operational or structural barriers to providing opioid use disorder**
6 **treatment in local correctional facilities or tribal correctional facili-**
7 **ties, including but not limited to mitigating any lack of secure storage**
8 **for medication.**

9 **“SECTION 89. The Oregon Criminal Justice Commission shall adopt**
10 **rules necessary to administer sections 85 to 91 of this 2024 Act. The**
11 **rules, at minimum, must:**

12 **“(1) Establish a methodology for reviewing and approving grant**
13 **applications and awarding grants.**

14 **“(2) Require applicants to submit a statement acknowledging that**
15 **any grant funds received must be expended in accordance with the**
16 **allowable uses described in section 88 of this 2024 Act.**

17 **“(3) Require applicants to submit a letter of commitment from each**
18 **administrator of a local correctional facility or tribal correctional fa-**
19 **ility, who is associated with the application, committing to partic-**
20 **ipate in good faith in the grant program.**

21 **“(4) Define ‘rural’ for purposes of section 87 (3) of this 2024 Act.**

22 **“SECTION 90. (1) The Oregon Criminal Justice Commission shall**
23 **convene an advisory committee to evaluate applications and make**
24 **recommendations to the commission for the awarding of grants under**
25 **section 87 of this 2024 Act.**

26 **“(2) The chairperson of the commission shall exercise discretion to**
27 **appoint members to serve on the advisory committee.**

28 **“SECTION 91. (1) The Oregon Jail-Based Medications for Opioid Use**
29 **Disorder Fund is established in the State Treasury, separate and dis-**
30 **tinct from the General Fund. Interest earned by the Oregon Jail-Based**

1 Medications for Opioid Use Disorder Fund shall be credited to the
2 fund. The fund consists of moneys appropriated or otherwise trans-
3 ferred to the fund by the Legislative Assembly.

4 “(2) Moneys in the fund are continuously appropriated to the
5 Oregon Criminal Justice Commission for the purposes of carrying out
6 sections 85 to 91 of this 2024 Act.

7 “SECTION 92. No later than December 1, 2024, the Oregon Criminal
8 Justice Commission shall submit a report, in the manner provided in
9 ORS 192.245, to the interim committees of the Legislative Assembly
10 related to the judiciary and health care. The report must include:

11 “(1) The name of each recipient of a grant under section 87 of this
12 2024 Act and the amount of moneys each grant recipient has received
13 to date.

14 “(2) Opportunities, if any, for local correctional facilities or tribal
15 correctional facilities to obtain medications for opioid use disorder
16 from state agencies.

17 “(3) Any other information relevant to the provision of opioid use
18 disorder treatment to persons in custody in local correctional facilities
19 or tribal correctional facilities.

20 “SECTION 93. Section 92 of this 2024 Act is repealed on January 2,
21 2025.

22 “SECTION 94. In addition to and not in lieu of any other appropri-
23 ation, there is appropriated to the Oregon Criminal Justice Commis-
24 sion, for the biennium ending June 30, 2025, out of the General Fund,
25 the amount of \$10,000,000 for deposit in the Oregon Jail-Based
26 Medications for Opioid Use Disorder Fund established under section
27 91 of this 2024 Act.

28

29 “CIVIL COMMITMENT OF PERSONS WITH SUBSTANCE USE DIS-

30 ORDERS

1 **“SECTION 95. The Legal Services Program established under ORS**
2 **9.572 shall provide legal services to individuals initiating commitment**
3 **procedures under ORS 426.170 for family members with substance use**
4 **disorders as defined in ORS 426.005. Such legal services shall include,**
5 **but need not be limited to, the provision of general legal information**
6 **and legal referral services. Notwithstanding ORS 9.572, legal services**
7 **may be provided under this section to an individual without regard to**
8 **the individual’s financial resources.**

9 **“SECTION 96. (1) A person with a substance disorder may be com-**
10 **mitted, be admitted or receive treatment as provided in ORS 426.005**
11 **to 426.390 and is entitled to the rights and is subject to the procedures**
12 **prescribed in ORS 426.005 to 426.390 for purposes of such commitment,**
13 **admission and treatment.**

14 **“(2) A substance use disorder is a mental disorder for purposes of**
15 **ORS 426.005 (1)(f) and ORS 426.133 (2) if:**

16 **“(a) The person with the substance use disorder has lost the ability**
17 **to control the person’s personal use of a controlled substance or an-**
18 **other substance with abuse potential; or**

19 **“(b) The substance use by the person with the substance use disor-**
20 **der is to the extent that the health of the person is substantially im-**
21 **paired or endangered or the social or economic functioning of the**
22 **person is substantially disrupted.**

23 **“(3) A person committed, admitted or receiving treatment pursuant**
24 **to subsection (1) of this section may not by reason of that fact alone**
25 **be considered a person with mental illness for any other purpose, in-**
26 **cluding ORS 426.130 (1)(a)(D).**

27 **“(4) In any order of commitment of a person with a substance use**
28 **disorder entered under the provisions of ORS 426.130, the court shall**
29 **specify that the person is a person with a substance use disorder.**

30 **“SECTION 97. ORS 426.005 is amended to read:**

1 “426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires
2 otherwise:

3 “(a) ‘Community mental health program director’ means the director of
4 an entity that provides the services described in ORS 430.630 (3) to (5).

5 “(b) ‘Director of the facility’ means a superintendent of a state mental
6 hospital, the chief of psychiatric services in a community hospital or the
7 person in charge of treatment and rehabilitation programs at other treatment
8 facilities.

9 “(c) ‘Facility’ means a state mental hospital, community hospital, resi-
10 dential facility, detoxification center, day treatment facility or such other
11 facility as the authority determines suitable that provides diagnosis and
12 evaluation, medical care, detoxification, social services or rehabilitation to
13 persons who are in custody during a prehearing period of detention or who
14 have been committed to the Oregon Health Authority under ORS 426.130.

15 “(d) ‘Licensed independent practitioner’ means:

16 “(A) A physician, as defined in ORS 677.010;

17 “(B) A nurse practitioner licensed under ORS 678.375 and authorized to
18 write prescriptions under ORS 678.390; or

19 “(C) A naturopathic physician licensed under ORS chapter 685.

20 “(e) ‘Nonhospital facility’ means any facility, other than a hospital, that
21 is approved by the authority to provide adequate security, psychiatric, nurs-
22 ing and other services to persons under ORS 426.232 or 426.233.

23 “(f) **‘Person alleged to have a mental illness’ means an individual**
24 **alleged to be a person with mental illness.**

25 “[*f*] (g) ‘Person with mental illness’ means a person who, because of a
26 mental disorder, is one or more of the following:

27 “(A) Dangerous to self or others.

28 “(B) Unable to provide for basic personal needs that are necessary to
29 avoid serious physical harm in the near future, and is not receiving such
30 care as is necessary to avoid such harm.

1 “(C) A person:

2 “(i) With a chronic mental illness, as defined in ORS 426.495;

3 “(ii) Who, within the previous three years, has twice been placed in a
4 hospital or approved inpatient facility by the authority or the Department
5 of Human Services under ORS 426.060;

6 “(iii) Who is exhibiting symptoms or behavior substantially similar to
7 those that preceded and led to one or more of the hospitalizations or inpa-
8 tient placements referred to in sub-subparagraph (ii) of this subparagraph;
9 and

10 “(iv) Who, unless treated, will continue, to a reasonable medical proba-
11 bility, to physically or mentally deteriorate so that the person will become
12 a person described under either subparagraph (A) or (B) of this paragraph
13 or both.

14 “[~~(g)~~] (h) ‘Prehearing period of detention’ means a period of time calcu-
15 lated from the initiation of custody during which a person may be detained
16 under ORS 426.228, 426.231, 426.232 or 426.233.

17 “(i) **‘Substance use disorder’ has the meaning given that term in the**
18 **fifth edition of the Diagnostic and Statistical Manual of Mental Dis-**
19 **orders published by the American Psychiatric Association.**

20 “(2) Whenever a community mental health program director, director of
21 the facility, superintendent of a state hospital or administrator of a facility
22 is referred to, the reference includes any designee such person has designated
23 to act on the person’s behalf in the exercise of duties.

24 “**SECTION 98.** ORS 426.070 is amended to read:

25 “426.070. (1) Any of the following may initiate commitment procedures
26 under this section by giving the notice described under subsection (2) of this
27 section:

28 “(a) Two persons;

29 “(b) The local health officer; or

30 “(c) Any magistrate or judge of a court of a federally recognized Indian

1 tribe located in this state.

2 “(2) For purposes of subsection (1) of this section, the notice must comply
3 with the following:

4 “(a) It must be in writing under oath;

5 “(b) It must be given to the community mental health program director
6 or a designee of the director in the county where the person alleged to have
7 a mental illness resides;

8 “(c) It must state that a person within the county other than the person
9 giving the notice is a person with mental illness and is in need of treatment,
10 care or custody;

11 “(d) If the commitment proceeding is initiated by two persons under sub-
12 section (1)(a) of this section, it may include a request that the court notify
13 the two persons:

14 “(A) Of the issuance or nonissuance of a warrant under this section; or

15 “(B) Of the court’s determination under ORS 426.130 (1); and

16 “(e) If the notice contains a request under paragraph (d) of this sub-
17 section, it must also include the addresses of the two persons making the
18 request.

19 “(3) Upon receipt of a notice under subsections (1) and (2) of this section
20 or when notified by a circuit court that the court received notice under ORS
21 426.234, the community mental health program director, or designee of the
22 director, shall:

23 “(a) Immediately notify the judge of the court having jurisdiction for that
24 county under ORS 426.060 of the notification described in subsections (1) and
25 (2) of this section.

26 “(b) Immediately notify the Oregon Health Authority if commitment is
27 proposed because the person appears to be a person with mental illness, as
28 defined in ORS 426.005 [(1)(f)(C)] (1)(g)(C). When such notice is received, the
29 authority may verify, to the extent known by the authority, whether or not
30 the person meets the criteria described in ORS 426.005 [(1)(f)(C)(i) and (ii)]

1 **(1)(g)(C)(i) and (ii)** and so inform the community mental health program
2 director or designee of the director.

3 “(c) Initiate an investigation under ORS 426.074 to determine whether
4 there is probable cause to believe that the person is in fact a person with
5 mental illness.

6 “(4) Upon completion, a recommendation based upon the investigation
7 report under ORS 426.074 shall be promptly submitted to the court. If the
8 community mental health program director determines that probable cause
9 does not exist to believe that a person released from detention under ORS
10 426.234 (2)(c) or (3)(b) is a person with mental illness, the community mental
11 health program director may recommend assisted outpatient treatment in
12 accordance with ORS 426.133.

13 “(5) When the court receives notice under subsection (3) of this section:

14 “(a) If the court, following the investigation, concludes that there is
15 probable cause to believe that the person investigated is a person with
16 mental illness, it shall, through the issuance of a citation as provided in ORS
17 426.090, cause the person to be brought before it at a time and place as it
18 may direct, for a hearing under ORS 426.095 to determine whether the person
19 is a person with mental illness. The person shall be given the opportunity
20 to appear voluntarily at the hearing unless the person fails to appear or
21 unless the person is detained pursuant to paragraph (b) of this subsection.

22 “(b)(A) If the court finds that there is probable cause to believe that
23 failure to take the person into custody pending the investigation or hearing
24 would pose serious harm or danger to the person or to others, the court may
25 issue a warrant of detention to the community mental health program di-
26 rector or designee or the sheriff of the county or designee directing the di-
27 rector, sheriff or a designee to take the person alleged to have a mental
28 illness into custody and produce the person at the time and place stated in
29 the warrant.

30 “(B) At the time the person is taken into custody, the person shall be

1 informed by the community mental health program director, the sheriff or a
2 designee of the following:

3 “(i) The person’s rights with regard to representation by or appointment
4 of counsel as described in ORS 426.100;

5 “(ii) The warning under ORS 426.123; and

6 “(iii) The person’s right, if the community mental health program direc-
7 tor, sheriff or designee reasonably suspects that the person is a foreign na-
8 tional, to communicate with an official from the consulate of the person’s
9 country. A community mental health program director, sheriff or designee is
10 not civilly or criminally liable for failure to provide the information required
11 by this sub-subparagraph. Failure to provide the information required by this
12 sub-subparagraph does not in itself constitute grounds for the exclusion of
13 evidence that would otherwise be admissible in a proceeding.

14 “(C) The court may make any orders for the care and custody of the
15 person prior to the hearing as it considers necessary.

16 “(c) If the notice includes a request under subsection (2)(d)(A) of this
17 section, the court shall notify the two persons of the issuance or nonissuance
18 of a warrant under this subsection.

19 **“SECTION 99.** ORS 426.074 is amended to read:

20 “426.074. The following is applicable to an investigation initiated by a
21 community mental health program director, or a designee of the director, as
22 part of commitment procedures under ORS 426.070 and 426.228 to 426.235:

23 “(1) If the person alleged to have a mental illness is held in custody be-
24 fore the hearing the investigation shall be completed at least 24 hours before
25 the hearing under ORS 426.095, otherwise the investigation shall comply with
26 the following time schedule:

27 “(a) If the person can be located, the investigator shall contact the person
28 within three judicial days from the date the community mental health pro-
29 gram director or a designee receives a notice under ORS 426.070 alleging that
30 the person has a mental illness and is in need of treatment.

1 “(b) Within 15 days from the date the community mental health program
2 director or a designee receives a notice under ORS 426.070, one of the fol-
3 lowing shall occur:

4 “(A) The investigation shall be completed and submitted to the court.

5 “(B) An application for extension shall be made to the court under para-
6 graph (c) of this subsection.

7 “(c) The community mental health program director, a designee or the
8 investigator may file for an extension of the time under paragraph (b) of this
9 subsection only if one of the following occurs:

10 “(A) A treatment option less restrictive than involuntary inpatient com-
11 mitment is actively being pursued.

12 “(B) The person alleged to have a mental illness cannot be located.

13 “(d) A court may grant an extension under paragraph (c) of this sub-
14 section for a time and upon the terms and conditions the court considers
15 appropriate.

16 “(2) This subsection establishes a nonexclusive list of provisions applica-
17 ble to the content of the investigation, as follows:

18 “(a) The investigation conducted should, where appropriate, include an
19 interview or examination of the person alleged to have a mental illness in
20 the home of the person or other place familiar to the person.

21 “(b) Whether or not the person consents, the investigation should include
22 interviews with any individuals that the investigator has probable cause to
23 believe have pertinent information regarding the investigation. If the person
24 objects to the contact with any individual, the objection shall be noted in
25 the investigator’s report.

26 “(c) The investigator shall be allowed access to licensed independent
27 practitioners, nurses or social workers and to medical records compiled dur-
28 ing the current involuntary prehearing period of detention to determine
29 probable cause and to develop alternatives to commitment. If commitment is
30 proposed because the person appears to be a person with mental illness as

1 defined in ORS 426.005 [(1)(f)(C)] **(1)(g)(C)**, the investigator shall be allowed
2 access to medical records necessary to verify the existence of criteria de-
3 scribed in ORS 426.005 [(1)(f)(C)] **(1)(g)(C)**. The investigator shall include
4 pertinent parts of the medical record in the investigation report. Records and
5 communications described in this paragraph and related communications are
6 not privileged under ORS 40.230, 40.235, 40.240 or 40.250.

7 “(3) A copy of the investigation report shall be provided as soon as pos-
8 sible, but in no event later than 24 hours prior to the hearing, to the person
9 and to the person’s counsel. Copies shall likewise be provided to counsel
10 assisting the court, to the examiners and to the court for use in questioning
11 witnesses.

12 **“SECTION 100.** ORS 426.170 is amended to read:

13 “426.170. If any person is adjudged to [*have a*] **be a person with** mental
14 illness and is ordered committed to the Oregon Health Authority, a copy of
15 the complete record in the case, certified to by the court clerk or court ad-
16 ministrator, shall be given to the local health officer, or to the sheriff, for
17 delivery to the director of the facility to which such person is assigned. The
18 record shall include the name, residence, nativity, sex and age of the person
19 and all other information that may be required by the rules and regulations
20 promulgated by the authority.

21 **“SECTION 101.** ORS 426.180 is amended to read:

22 “426.180. (1) ORS 426.180 to 426.210 apply to the commitment of an indi-
23 vidual in Indian country if a federally recognized Indian tribe that has In-
24 dian country located within this state chooses to exercise the tribe’s
25 authority over the commitment.

26 “(2) As used in this section and ORS 426.200 and 426.210, ‘hospital’ means
27 a hospital that is licensed under ORS chapter 441, other than an institution
28 listed in ORS 426.010.

29 “(3) If the court of a tribe having jurisdiction over an individual issues
30 an order finding that the individual is dangerous to self or to any other

1 person and is in need of immediate care, custody or treatment for mental
2 illness, **including mental illness caused by a substance use disorder**, a
3 person may request that the individual be taken by a tribal police officer or
4 other peace officer to a hospital or nonhospital facility by submitting to the
5 officer a certified copy of the order and an affidavit that includes:

6 “(a) The name and address of the nearest relative or legal guardian of the
7 individual; and

8 “(b) A medical history completed by one of the following, who may not
9 be related to the individual by blood or marriage:

10 “(A) The tribe’s mental health authority, if the tribe has entered into an
11 agreement with the state pursuant to ORS 430.630 (9)(a)(B);

12 “(B) A qualified mental health professional; or

13 “(C) A licensed independent practitioner.

14 “(4) Upon receipt of the order and affidavit described in subsection (3) of
15 this section, the tribal police officer or other peace officer shall immediately
16 transport the individual to a hospital or a nonhospital facility and present
17 the individual to the hospital or nonhospital facility accompanied by the
18 court order and affidavit.

19 “(5) The director of the hospital or nonhospital facility may refuse to
20 admit the individual if a licensed independent practitioner, after reviewing
21 the documents accompanying the individual, is not satisfied that an emer-
22 gency exists or that the individual is dangerous to self or others and in need
23 of immediate care, custody or treatment for mental illness, **including men-
24 tal illness caused by a substance use disorder**.

25 “(6) If the hospital or nonhospital facility admits the individual, the di-
26 rector or a licensed independent practitioner shall notify the community
27 mental health program director for the area and the circuit court with ju-
28 risdiction in the area where the facility is located. Upon receipt of the no-
29 tice, the community mental health program director shall initiate
30 commitment proceedings in accordance with ORS 426.070.

1 “(7) If an individual is admitted to a hospital or nonhospital facility under
2 this section, any licensed independent practitioner who is treating the indi-
3 vidual shall give the individual the warning under ORS 426.123.

4 “(8) This section may be applied as provided by agreement with the gov-
5 erning body of the reservation. Payment of costs for a commitment made
6 under this section shall be as provided under ORS 426.250.

7 “(9) The director of the hospital or nonhospital facility or licensed inde-
8 pendent practitioner shall notify the appropriate tribe regarding all actions
9 taken under ORS 426.180 to 426.210 no later than 24 hours after the action
10 is taken, except for information protected from disclosure by state or federal
11 law.

12 **“SECTION 102.** ORS 426.220 is amended to read:

13 “426.220. (1) Pursuant to rules and regulations promulgated by the Oregon
14 Health Authority, the superintendent of any state hospital for the treatment
15 and care of persons with mental illness may admit and hospitalize therein
16 as a patient, any person who may have a nervous disorder or a mental
17 illness, **including a mental illness caused by a substance use disorder,**
18 and who voluntarily has made written application for such admission. No
19 person under the age of 18 years shall be admitted as a patient to any such
20 state hospital unless an application therefor in behalf of the person has been
21 executed by the parent, adult next of kin or legal guardian of the person.
22 Except when a period of longer hospitalization has been imposed as a con-
23 dition of admission, pursuant to rules and regulations of the authority, no
24 person voluntarily admitted to any state hospital shall be detained therein
25 more than 72 hours after the person, if at least 18 years of age, has given
26 notice in writing of a desire to be discharged therefrom, or, if the patient is
27 under the age of 18 years, after notice in writing has been given by the
28 parent, adult next of kin or legal guardian of the person that such parent,
29 adult next of kin or legal guardian desires that such person be discharged
30 therefrom.

1 “(2) Any person voluntarily admitted to a state hospital pursuant to this
2 section may upon application and notice to the superintendent of the hospi-
3 tal concerned, be granted a temporary leave of absence from the hospital if
4 such leave, in the opinion of the superintendent, will not interfere with the
5 successful treatment or examination of the applicant for leave.

6 “(3) Upon admission or discharge of a minor to or from a state hospital
7 the superintendent shall immediately notify the parent or guardian.

8 **“SECTION 103.** ORS 426.225 is amended to read:

9 “426.225. (1) If any person who has been committed to the Oregon Health
10 Authority under ORS 426.127 or 426.130 (1)(a)(B) or (C) requests, during this
11 period of commitment, voluntary admission to a state hospital, the super-
12 intendent shall cause the person to be examined immediately by a licensed
13 independent practitioner. If the licensed independent practitioner finds the
14 person to be in need of immediate care or treatment for mental illness, the
15 person shall be voluntarily admitted.

16 “(2) If any person who has been committed to the authority under ORS
17 426.127 or 426.130 (1)(a)(B) or (C) requests, during this period of commitment,
18 voluntary admission to a facility approved by the authority, the administra-
19 tor of the facility shall cause the person to be examined immediately by a
20 licensed independent practitioner. If the licensed independent practitioner
21 finds the person to be in need of immediate care or treatment for mental
22 illness, **including mental illness caused by a substance use disorder**, and
23 the authority grants approval, the person shall be voluntarily admitted.

24 **“SECTION 104.** ORS 426.228 is amended to read:

25 “426.228. (1) A peace officer may take into custody a person who the of-
26 ficer has probable cause to believe is dangerous to self or to any other person
27 and is in need of immediate care, custody or treatment for mental illness,
28 **including mental illness caused by a substance use disorder**. As directed
29 by the community mental health program director, a peace officer shall re-
30 move a person taken into custody under this section to the nearest hospital

1 or nonhospital facility approved by the Oregon Health Authority. The officer
2 shall prepare a written report and deliver it to the licensed independent
3 practitioner who is treating the person. The report shall state:

4 “(a) The reason for custody;

5 “(b) The date, time and place the person was taken into custody; and

6 “(c) The name of the community mental health program director and a
7 telephone number where the director may be reached at all times.

8 “(2) A peace officer shall take a person into custody when the community
9 mental health program director, pursuant to ORS 426.233, notifies the peace
10 officer that the director has probable cause to believe that the person is
11 imminently dangerous to self or to any other person. As directed by the
12 community mental health program director, the peace officer shall remove
13 the person to a hospital or nonhospital facility approved by the authority.
14 The community mental health program director shall prepare a written re-
15 port that the peace officer shall deliver to the licensed independent practi-
16 tioner who is treating the person. The report shall state:

17 “(a) The reason for custody;

18 “(b) The date, time and place the person was taken into custody; and

19 “(c) The name of the community mental health program director and a
20 telephone number where the director may be reached at all times.

21 “(3) If more than one hour will be required to transport the person to the
22 hospital or nonhospital facility from the location where the person was taken
23 into custody, the peace officer shall obtain, if possible, a certificate from a
24 licensed independent practitioner stating that the travel will not be detri-
25 mental to the person’s physical health and that the person is dangerous to
26 self or to any other person and is in need of immediate care or treatment for
27 mental illness, **including mental illness caused by a substance use dis-**
28 **order.** The licensed independent practitioner shall have personally examined
29 the person within 24 hours prior to signing the certificate.

30 “(4) When a peace officer or other authorized individual, acting under this

1 section, delivers a person to a hospital or nonhospital facility, a licensed
2 independent practitioner shall examine the person immediately. If the li-
3 censed independent practitioner finds the person to be in need of emergency
4 care or treatment for mental illness, **including mental illness caused by**
5 **a substance use disorder**, the licensed independent practitioner shall pro-
6 ceed under ORS 426.232, otherwise the person may not be retained in cus-
7 tody. If the person is to be released from custody, the peace officer or the
8 community mental health program director shall return the person to the
9 place where the person was taken into custody unless the person declines
10 that service.

11 “(5) A peace officer may transfer a person in custody under this section
12 to the custody of an individual authorized by the community mental health
13 program director under ORS 426.233 (3). The peace officer may meet the
14 authorized individual at any location that is in accordance with ORS 426.140
15 to effect the transfer. When transferring a person in custody to an authorized
16 individual, the peace officer shall deliver the report required under sub-
17 sections (1) and (2) of this section to the authorized individual.

18 “(6) An individual authorized under ORS 426.233 (3) shall take a person
19 into custody when directed to do so by a peace officer or by a community
20 mental health program director under ORS 426.233.

21 “(7) An individual authorized under ORS 426.233 (3) shall perform the
22 duties of the peace officer or the community mental health program director
23 required by this section and ORS 426.233 if the peace officer or the director
24 has not already done so.

25 “(8) An individual authorized under ORS 426.233 (3) may transfer a person
26 in custody under this section to the custody of another individual authorized
27 under ORS 426.233 (3) or a peace officer. The individual transferring custody
28 may meet another authorized individual or a peace officer at any location
29 that is in accordance with ORS 426.140 to effect the transfer.

30 “(9)(a) When a peace officer takes a person into custody under this sec-

1 tion, and the peace officer reasonably suspects that the person is a foreign
2 national, the peace officer shall inform the person of the person's right to
3 communicate with an official from the consulate of the person's country.

4 “(b) A peace officer is not civilly or criminally liable for failure to pro-
5 vide the information required by this subsection. Failure to provide the in-
6 formation required by this subsection does not in itself constitute grounds
7 for the exclusion of evidence that would otherwise be admissible in a pro-
8 ceeding.

9 **“SECTION 105.** ORS 426.231 is amended to read:

10 “426.231. (1) A licensed independent practitioner may hold a person for
11 transportation to a treatment facility for up to 12 hours in a health care
12 facility licensed under ORS chapter 441 and approved by the Oregon Health
13 Authority if:

14 “(a) The licensed independent practitioner believes the person is danger-
15 ous to self or to any other person and is in need of emergency care or
16 treatment for mental illness, **including mental illness caused by a sub-**
17 **stance use disorder;**

18 “(b) The licensed independent practitioner is not related to the person by
19 blood or marriage; and

20 “(c) A licensed independent practitioner with admitting privileges at the
21 receiving facility consents to the transporting.

22 “(2) Before transporting the person, the licensed independent practitioner
23 shall prepare a written statement that:

24 “(a) The licensed independent practitioner has examined the person
25 within the preceding 12 hours;

26 “(b) A licensed independent practitioner with admitting privileges at the
27 receiving facility has consented to the transporting of the person for exam-
28 ination and admission if appropriate; and

29 “(c) The licensed independent practitioner believes the person is danger-
30 ous to self or to any other person and is in need of emergency care or

1 treatment for mental illness, **including mental illness caused by a sub-**
2 **stance use disorder.**

3 “(3) The written statement required by subsection (2) of this section au-
4 thorizes a peace officer, an individual authorized under ORS 426.233 or the
5 designee of a community mental health program director to transport a per-
6 son to the treatment facility indicated on the statement.

7 **“SECTION 106.** ORS 426.232 is amended to read:

8 “426.232. (1) If a licensed independent practitioner believes a person who
9 is brought to a hospital or nonhospital facility by a peace officer under ORS
10 426.228 or by an individual authorized under ORS 426.233, or believes a per-
11 son who is at a hospital or nonhospital facility, is dangerous to self or to
12 any other person and is in need of emergency care or treatment for mental
13 illness, **including mental illness caused by a substance use disorder**, and
14 the licensed independent practitioner is not related to the person by blood
15 or marriage, the licensed independent practitioner may do one of the fol-
16 lowing:

17 “(a) Detain the person and cause the person to be admitted or, if the
18 person is already admitted, cause the person to be retained in a hospital
19 where the licensed independent practitioner has admitting privileges or is
20 on staff.

21 “(b) Approve the person for emergency care or treatment at a nonhospital
22 facility approved by the authority.

23 “(2) When approving a person for emergency care or treatment at a non-
24 hospital facility under this section, the licensed independent practitioner
25 shall notify immediately the community mental health program director in
26 the county where the person was taken into custody and maintain the per-
27 son, if the person is being held at a hospital, for as long as is feasible given
28 the needs of the person for mental or physical health or safety. However,
29 under no circumstances may the person be held for longer than five judicial
30 days.

1 **“SECTION 107.** ORS 426.233 is amended to read:

2 “426.233. (1)(a) A community mental health program director operating
3 under ORS 430.610 to 430.695 or a designee of the director may take one of
4 the actions listed in paragraph (b) of this subsection when the community
5 mental health program director or designee has probable cause to believe a
6 person:

7 “(A) Is dangerous to self or to any other person and is in need of imme-
8 diate care, custody or treatment for mental illness, **including mental ill-**
9 **ness caused by a substance use disorder; or**

10 “(B)(i) Is a person with mental illness placed on conditional release under
11 ORS 426.125, outpatient commitment under ORS 426.127 or trial visit under
12 ORS 426.273; and

13 “(ii) Is dangerous to self or to any other person or is unable to provide
14 for basic personal needs and is not receiving the care that is necessary for
15 health and safety and is in need of immediate care, custody or treatment for
16 mental illness, **including mental illness caused by a substance use dis-**
17 **order.**

18 “(b) The community mental health program director or designee under the
19 circumstances set out in paragraph (a) of this subsection may:

20 “(A) Notify a peace officer to take the person into custody and direct the
21 officer to remove the person to a hospital or nonhospital facility approved
22 by the Oregon Health Authority;

23 “(B) Authorize involuntary admission of, or, if already admitted, cause to
24 be involuntarily retained in a nonhospital facility approved by the authority,
25 a person approved for care or treatment at a nonhospital facility by a li-
26 censed independent practitioner under ORS 426.232;

27 “(C) Notify an individual authorized under subsection (3) of this section
28 to take the person into custody and direct the authorized individual to re-
29 move the person in custody to a hospital or nonhospital facility approved by
30 the authority;

1 “(D) Direct an individual authorized under subsection (3) of this section
2 to transport a person in custody from a hospital or a nonhospital facility
3 approved by the authority to another hospital or nonhospital facility ap-
4 proved by the authority as provided under ORS 426.235; or

5 “(E) Direct an individual authorized under subsection (3) of this section
6 to transport a person in custody from a facility approved by the authority
7 to another facility approved by the authority as provided under ORS 426.060.

8 “(2) A designee under subsection (1) of this section must meet the stan-
9 dards established by rule of the authority and be approved by the community
10 mental health program director before assuming the authority permitted un-
11 der subsection (1) of this section.

12 “(3) The community mental health program director may authorize any
13 individual to provide custody and secure transportation services for a person
14 in custody under ORS 426.228. In authorizing an individual under this sub-
15 section, the community mental health program director shall grant the indi-
16 vidual the authority to do the following:

17 “(a) Accept custody from a peace officer of a person in custody under ORS
18 426.228;

19 “(b) Take custody of a person upon notification by the community mental
20 health program director under the provisions of this section;

21 “(c) Remove a person in custody to an approved hospital or nonhospital
22 facility as directed by the community mental health program director;

23 “(d) Transfer a person in custody to another individual authorized under
24 this subsection or a peace officer;

25 “(e) Transfer a person in custody from a hospital or nonhospital facility
26 to another hospital facility or nonhospital facility when directed to do so by
27 the community mental health program director; and

28 “(f) Retain a person in custody at the approved hospital or nonhospital
29 facility until a licensed independent practitioner makes a determination un-
30 der ORS 426.232.

1 “(4) An individual authorized under subsection (3) of this section must
2 meet the standards established by rule of the authority and be approved by
3 the community mental health program director before assuming the authority
4 granted under this section.

5 “(5) The costs of transporting a person under ORS 426.060, 426.228 or
6 426.235 by an individual authorized under subsection (3) of this section shall
7 be the responsibility of the community mental health program in the county
8 in which the authorized individual is directed by a peace officer or a com-
9 munity mental health program director to take custody of a person and to
10 transport the person to a facility approved by the authority, but the com-
11 munity mental health program shall not be responsible for costs that exceed
12 the amount provided by the state for that transportation. An individual au-
13 thorized to act under subsection (3) of this section shall charge the cost of
14 emergency medical transportation to, and collect that cost from, the person,
15 third party payers or other legally or financially responsible individuals or
16 entities in the same manner that costs for the transportation of other persons
17 are charged and collected.

18 **“SECTION 108.** ORS 426.234 is amended to read:

19 “426.234. (1) At the time a person alleged to have a mental illness is ad-
20 mitted to or retained in a hospital or nonhospital facility under ORS 426.232
21 or 426.233, a licensed independent practitioner, nurse or qualified mental
22 health professional at the hospital or nonhospital facility shall:

23 “(a) Inform the person of the person’s right to representation by or ap-
24 pointment of counsel as described in ORS 426.100;

25 “(b) Give the person the warning under ORS 426.123;

26 “(c) Immediately examine the person;

27 “(d) Set forth, in writing, the condition of the person and the need for
28 emergency care or treatment; and

29 “(e) If the licensed independent practitioner, nurse or qualified mental
30 health professional reasonably suspects that the person is a foreign national,

1 inform the person of the person's right to communicate with an official from
2 the consulate of the person's country. A licensed independent practitioner,
3 nurse or qualified mental health professional is not civilly or criminally li-
4 able for failure to provide the information required by this paragraph. Fail-
5 ure to provide the information required by this paragraph does not in itself
6 constitute grounds for the exclusion of evidence that would otherwise be
7 admissible in a proceeding.

8 “(2)(a) At the time the person is admitted to or retained in a hospital
9 under ORS 426.232, the licensed independent practitioner shall contact the
10 community mental health program director of the county in which the person
11 resides, if the county of residence is different from the county in which the
12 hospital is located. The community mental health program director may re-
13 quest that the licensed independent practitioner notify the circuit court in
14 the county in which the person resides. If the community mental health
15 program director does not make the request, the licensed independent prac-
16 titioner shall notify, immediately and in writing, the circuit court in the
17 county in which the person is hospitalized.

18 “(b) At the time the person is admitted to a hospital under ORS 426.232
19 after being brought to the hospital by a peace officer under ORS 426.228, the
20 licensed independent practitioner shall contact the community mental health
21 program director of the county in which the person is hospitalized. The
22 community mental health program director of the county in which the person
23 is hospitalized may request that the licensed independent practitioner notify
24 the circuit court in the county in which the person is hospitalized. If the
25 community mental health program director does not make the request, the
26 licensed independent practitioner shall notify, immediately and in writing,
27 the circuit court in the county in which the person was taken into custody.

28 “(c) If, at any time prior to the hearing under ORS 426.070 to 426.130, the
29 licensed independent practitioner responsible for a person admitted or re-
30 tained under ORS 426.232 determines that the person is not dangerous to self

1 or to any other person and is not in need of emergency care or treatment for
2 mental illness, **including mental illness caused by a substance use dis-**
3 **order**, the licensed independent practitioner may release the person from the
4 detention authorized by ORS 426.232. The licensed independent practitioner
5 shall immediately notify the circuit court notified under this subsection and
6 the community mental health program director of the person's release from
7 detention.

8 “(3)(a) At the time the person is admitted to or retained in a nonhospital
9 facility under ORS 426.233, the community mental health program director
10 in the county where the person was taken into custody shall contact the
11 community mental health program director of the county in which the person
12 resides, if the county of residence is different from the county in which the
13 person was taken into custody. The community mental health program di-
14 rector of the county in which the person resides may request that the com-
15 munity mental health program director of the county in which the person
16 was taken into custody notify the circuit court in the county where the
17 person resides. Otherwise, the community mental health program director of
18 the county in which the person was taken into custody shall notify, imme-
19 diately and in writing, the circuit court in the county in which the person
20 was taken into custody.

21 “(b) If, at any time prior to the hearing under ORS 426.070 to 426.130, a
22 community mental health program director, after consultation with a li-
23 censed independent practitioner, determines that a person admitted or re-
24 tained under ORS 426.233 is not dangerous to self or to any other person and
25 is not in need of immediate care, custody or treatment for mental illness,
26 **including mental illness caused by a substance use disorder**, the com-
27 munity mental health program director may release the person from de-
28 tention. The community mental health program director shall immediately
29 notify the circuit court originally notified under paragraph (a) of this sub-
30 section of the person's release from detention.

1 “(4) When the judge of the circuit court receives notice under subsection
2 (2) or (3) of this section, the judge immediately shall commence proceedings
3 under ORS 426.070 to 426.130. In a county having a population of 100,000 or
4 more, and when feasible in a county with a lesser population, the community
5 mental health program director or designee who directs the peace officer or
6 other authorized individual to take a person into custody under ORS 426.233
7 shall not also conduct the investigation as provided for under ORS 426.074.
8 Except when a person is being held under ORS 426.237 (1)(b), a person shall
9 not be held under ORS 426.232 or 426.233 for more than five judicial days
10 without a hearing being held under ORS 426.070 to 426.130.

11 “(5) When the judge of the circuit court receives notice under subsection
12 (2)(c) or (3)(b) of this section that a person has been released, and unless the
13 court receives the recommendation required by ORS 426.070 (4), the judge
14 shall dismiss the case no later than 14 days after the date the person was
15 initially detained.

16 **“SECTION 109.** ORS 426.237 is amended to read:

17 “426.237. (1) During a prehearing period of detention as provided in ORS
18 426.070, 426.140, 426.232 or 426.233, the community mental health program
19 director shall do one of the following:

20 “(a) Recommend, in an investigation report as provided in ORS 426.074,
21 that the circuit court not proceed further in the matter if the community
22 mental health program director does not believe the person is a person with
23 mental illness or that the person is in need of assisted outpatient treatment.

24 “(b) No later than three judicial days after initiation of a prehearing pe-
25 riod of detention as provided in ORS 426.070, 426.140, 426.232 or 426.233,
26 certify the detained person for a 14-day period of intensive treatment if:

27 “(A) The community mental health program director and a licensed inde-
28 pendent practitioner have probable cause to believe the person is a person
29 with mental illness;

30 “(B) The community mental health program director in the county where

1 the person resides verbally approves the arrangements for payment for the
2 services at the hospital or nonhospital facility; and

3 “(C) The community mental health program director locates a hospital
4 or nonhospital facility that:

5 “(i) Is approved by the authority and the community mental health pro-
6 gram director in the county where the person resides; and

7 “(ii) Can, in the opinion of the community mental health program director
8 and the licensed independent practitioner, provide intensive care or treat-
9 ment for mental illness, **including mental illness caused by a substance**
10 **use disorder**, necessary and sufficient to meet the emergency psychiatric
11 needs of the person.

12 “(c) Recommend, in an investigation report as provided in ORS 426.074,
13 that the circuit court hold a hearing under ORS 426.070 to 426.130 if the
14 community mental health program director has probable cause to believe the
15 person is a person with mental illness or that the person is in need of as-
16 sisted outpatient treatment.

17 “(2)(a) If the circuit court adopts the recommendation of the community
18 mental health program director under subsection (1)(a) of this section, the
19 circuit court shall enter an order releasing the person and dismissing the
20 case. Unless the person agrees to voluntary treatment, if the person is being
21 detained in a:

22 “(A) Nonhospital facility, the community mental health program director
23 shall make discharge plans and ensure the discharge of the person.

24 “(B) Hospital, the licensed independent practitioner who is treating the
25 person shall make discharge plans and discharge the person.

26 “(b) Upon release of the person, the community mental health program
27 director shall attempt to notify the person’s next of kin if the person con-
28 sents to the notification.

29 “(3)(a) If the detained person is certified for treatment under subsection
30 (1)(b) of this section, the community mental health program director shall:

1 “(A) Deliver immediately a certificate to the court having jurisdiction
2 under ORS 426.060; and

3 “(B) Orally inform the person of the certification and deliver a copy of
4 the certificate to the person.

5 “(b) The certificate required by paragraph (a) of this subsection shall in-
6 clude:

7 “(A) A written statement under oath by the community mental health
8 program director and the licensed independent practitioner that they have
9 probable cause to believe the person is a person with mental illness in need
10 of care or treatment for mental illness, **including mental illness caused**
11 **by a substance use disorder;**

12 “(B) A treatment plan that describes, in general terms, the types of
13 treatment and medication to be provided to the person during the 14-day
14 period of intensive treatment;

15 “(C) A notice of the person’s right to an attorney and that an attorney
16 will be appointed by the court or as otherwise obtained under ORS 426.100
17 (3);

18 “(D) A notice that the person has a right to request and be provided a
19 hearing under ORS 426.070 to 426.130 at any time during the 14-day period;
20 and

21 “(E) The date and time the copy of the certificate was delivered to the
22 person.

23 “(c) Immediately upon receipt of a certificate under paragraph (a) of this
24 subsection, the court shall notify the person’s attorney or appoint an attor-
25 ney for the person if the person cannot afford one. Within 24 hours of the
26 time the certificate is delivered to the court, the person’s attorney shall re-
27 view the certificate with the person. If the person and the person’s attorney
28 consent to the certification within one judicial day of the time the certificate
29 is delivered to the circuit court and, except as provided in subsection (4) of
30 this section, the court shall postpone the hearing required by ORS 426.070

1 to 426.130 for 14 days.

2 “(d) When a person is certified for treatment under subsection (1)(b) of
3 this section and accepts the certification:

4 “(A) Except as otherwise provided in this paragraph, all methods of
5 treatment, including the prescription and administration of drugs, shall be
6 the sole responsibility of the licensed independent practitioner who is treat-
7 ing the person. However, the person shall not be subject to electroshock
8 therapy or unduly hazardous treatment and shall receive usual and custom-
9 ary treatment in accordance with medical standards in the community.

10 “(B) Except when the person expressly refuses treatment, the treating li-
11 censed independent practitioner shall treat the person within the scope of
12 the treatment plan provided the person under paragraph (b) of this sub-
13 section. The person’s refusal of treatment constitutes sufficient grounds for
14 the community mental health program director to request a hearing as pro-
15 vided in subsection (4)(a) of this section.

16 “(C) If the person is in a hospital and the community mental health pro-
17 gram director locates a nonhospital facility, approved by the authority, that,
18 in the opinion of the community mental health program director and the li-
19 censed independent practitioner who is treating the person, can provide care
20 or treatment for mental illness, **including mental illness caused by a**
21 **substance use disorder**, necessary and sufficient to meet the emergency
22 psychiatric needs of the person, the treating licensed independent practi-
23 tioner shall discharge the person from the hospital and the community men-
24 tal health program director shall remove the person to the nonhospital
25 facility for the remainder of the 14-day intensive treatment period. If, how-
26 ever, in the opinion of the treating licensed independent practitioner, the
27 person’s condition requires the person to receive medical care or treatment,
28 the licensed independent practitioner shall retain the person in the hospital.

29 “(D) If the person is in a nonhospital facility, the community mental
30 health program director shall transfer the person to a hospital approved by

1 the authority under the following conditions:

2 “(i) If, in the opinion of a licensed independent practitioner, the person’s
3 condition requires the person to receive medical care or treatment in a hos-
4 pital; and

5 “(ii) The licensed independent practitioner agrees to admit the person to
6 a hospital, approved by the authority, where the licensed independent prac-
7 titioner has admitting privileges.

8 “(E) If the person is transferred as provided in subparagraph (C) or (D)
9 of this paragraph, the community mental health program director shall notify
10 the circuit court, in the county where the certificate was filed, of the lo-
11 cation of the person. The person may appeal the transfer as provided by rules
12 of the authority.

13 “(e) If the person is in a hospital, the licensed independent practitioner
14 who is treating the person may discharge the person at any time during the
15 14-day period. The treating licensed independent practitioner shall confer
16 with the community mental health program director and the person’s next
17 of kin, if the person consents to the consultation, prior to discharging the
18 person. Immediately upon discharge of the person, the treating licensed in-
19 dependent practitioner shall notify the court in the county in which the
20 certificate was filed initially.

21 “(f) If the person is in a nonhospital facility, the community mental
22 health program director may discharge the person at any time during the
23 14-day period. The community mental health program director shall consult
24 with the licensed independent practitioner who is treating the person and the
25 person’s next of kin, if the person consents to the consultation, prior to
26 discharging the person. Immediately upon discharge of the person, the com-
27 munity mental health program director shall notify the court in the county
28 in which the certificate was filed initially.

29 “(g) The person may agree to voluntary treatment at any time during the
30 14-day period. When a person agrees to voluntary treatment under this par-

1 agraph, the community mental health program director immediately shall
2 notify the court in the county in which the certificate was filed initially.

3 “(h) A person consenting to 14 days of treatment under subsection (3)(c)
4 of this section shall not be held longer than 14 days from the time of con-
5 senting without a hearing as provided in ORS 426.070 to 426.130.

6 “(i) When the court receives notification under paragraph (e), (f) or (g)
7 of this subsection, the court shall dismiss the case.

8 “(4) The judge of the circuit court shall immediately commence pro-
9 ceedings under ORS 426.070 to 426.130 when:

10 “(a) The person consenting to 14 days of treatment or the community
11 mental health program director requests a hearing. The hearing shall be held
12 without unreasonable delay. In no case shall the person be held in a hospital
13 or nonhospital facility longer than five judicial days after the request for a
14 hearing is made without a hearing being held under ORS 426.070 to 426.130.

15 “(b) The community mental health program director acts under subsection
16 (1)(c) of this section. In no case shall the person be held longer than five
17 judicial days without a hearing under this subsection.

18 **“SECTION 110.** ORS 426.241 is amended to read:

19 “426.241. (1) The cost of emergency psychiatric care, custody and treat-
20 ment related to or resulting from such psychiatric condition, provided by a
21 hospital or other facility approved by the Oregon Health Authority and the
22 community mental health program director of the county in which the fa-
23 cility is located, except a state hospital, for a person alleged to have a
24 mental illness who is admitted or detained under ORS 426.070, 426.140,
25 426.228, 426.232 or 426.233, or for a person with mental illness who is admit-
26 ted or detained under ORS 426.150, 426.223, 426.273, 426.275 or 426.292, shall
27 be paid by the community mental health program in the county of which the
28 person is a resident from state funds provided to the community mental
29 health program for this purpose. The community mental health program is
30 responsible for the cost when state funds provided to the community mental

1 health program are exhausted. The hospital or other facility shall charge to
2 and collect from the person, third party payers or other legally or financially
3 responsible individuals or entities the costs of the emergency care, custody
4 and treatment, as it would for any other patient, and any funds received
5 shall be applied as an offset to the cost of the services provided under this
6 section.

7 “(2) If any person is admitted to or detained in a state hospital under ORS
8 426.070, 426.140, 426.180 to 426.210, 426.228, 426.232 or 426.233 for emergency
9 care, custody or treatment, the authority shall charge to and collect from the
10 person, third party payers or other legally or financially responsible indi-
11 viduals or entities the costs as it would for other patients of the state hos-
12 pitals under the provisions of ORS 179.610 to 179.770.

13 “(3) If any person is adjudged to [*have a*] **be a person with** mental illness
14 under the provisions of ORS 426.130, or determined to be an extremely dan-
15 gerous person with mental illness under ORS 426.701 or 426.702, and the
16 person receives care and treatment in a state hospital, the person, third
17 party payers or other legally or financially responsible individuals or entities
18 shall be required to pay for the costs of the hospitalization at the state
19 hospital, as provided by ORS 179.610 to 179.770, if financially able to do so.

20 “(4) For purposes of this section and ORS 426.310, ‘resident’ means resi-
21 dent of the county in which the person maintains a current mailing address
22 or, if the person does not maintain a current mailing address within the
23 state, the county in which the person is found, or the county in which a
24 court-committed person has been conditionally released.

25 “(5)(a) The authority may deny payment for part or all of the emergency
26 psychiatric services provided by a hospital or nonhospital facility under ORS
27 426.232, 426.233 or 426.237 when the authority finds, upon review, that the
28 condition of the person alleged to have a mental illness did not meet the
29 admission criteria in ORS 426.232 (1), 426.233 (1) or 426.237 (1)(b)(A). The
30 payer responsible under this section shall make a request for denial of pay-

1 ment for emergency psychiatric services provided under ORS 426.232, 426.233
2 or 426.237 in writing to the authority.

3 “(b) The authority may require the following to provide the authority
4 with any information that the authority determines is necessary to review
5 a request for denial of payment made under this subsection or to conduct a
6 review of emergency psychiatric services for the purpose of planning or de-
7 fining authority rules:

8 “(A) A hospital or nonhospital facility approved under ORS 426.228 to
9 426.235 or 426.237.

10 “(B) A physician or a person providing emergency psychiatric services
11 under ORS 426.228 to 426.235 or 426.237.

12 “(c) The authority shall adopt rules necessary to carry out the purposes
13 of this subsection.

14

15

“APPLICABILITY

16

17 **“SECTION 111. Sections 36 to 38 and 49 of this 2024 Act, the**
18 **amendments to ORS 51.050, 135.233, 135.235, 135.245, 135.265, 137.300,**
19 **153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 161.570, 221.339, 419C.370,**
20 **419C.460, 430.306, 430.384, 430.389, 430.399, 430.401, 475.005, 475.235, 475.752,**
21 **475.814, 475.824, 475.834, 475.854, 475.874, 475.884, 475.894 and 670.280 by**
22 **sections 29 to 33, 50 to 58a, 60 to 73 and 81 of this 2024 Act and the re-**
23 **peal of ORS 153.043, 153.062 and 475.237 by section 77 of this 2024 Act**
24 **apply to conduct occurring on or after the effective date of this 2024**
25 **Act.**

26 **“SECTION 112. The amendments to ORS 426.005, 426.070, 426.074,**
27 **426.170, 426.180, 426.220, 426.225, 426.228, 426.231, 426.232, 426.233, 426.234,**
28 **426.237 and 426.241 by sections 97 to 110 of this 2024 Act apply to indi-**
29 **viduals subject to civil commitment proceedings initiated on or after**
30 **the effective date of this 2024 Act and to individuals who are taken into**

1 custody by a treatment facility or law enforcement on or after the
2 effective date of this 2024 Act.

3

4

“CAPTIONS

5

6 **“SECTION 113. The unit captions used in this 2024 Act are provided**
7 **only for the convenience of the reader and do not become part of the**
8 **statutory law of this state or express any legislative intent in the**
9 **enactment of this 2024 Act.**

10

11

“EMERGENCY CLAUSE

12

13 **“SECTION 114. This 2024 Act being necessary for the immediate**
14 **preservation of the public peace, health and safety, an emergency is**
15 **declared to exist, and this 2024 Act takes effect on its passage.”.**

16
