

Testimony: HB 4002

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Position on the Measure: Support

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Thank you for inviting me to testify on HB 4002, the bill aimed at addressing the legislative issues that have followed Measure 110 and the decriminalization of hard drugs. I am the President of the Foundation for Drug Policy, a non-partisan drug policy organization focused on bending the curve of the drug crisis by expanding access to treatment and prevention, as well as by reducing the supply of illicit drugs. I am also the President of Smart Approaches to Marijuana, which is a leading organization that opposes the legalization and commercialization of marijuana on the basis that it will create a for-profit industry that will harm public health. Prior to this, I served in the White House Office of National Drug Control Policy during the Clinton, Bush (43), and Obama administrations.

Far from achieving its intended outcomes, Measure 110 [has seen numerous outcomes worsen](#), including the number of overdose deaths, traffic fatalities, and the crime rate. In turn, having seen and felt these outcomes firsthand, public support among Oregon voters has plummeted. We support the framework outlined in HB 4002 and believe that it should go further.

Rather than reducing the number of overdose deaths, this number further increased after the passage of Measure 110. Between 2020 and 2022, the number of overdose deaths in Oregon increased 75%, from 797 to 1392, compared to only 18% nationally, according to the CDC's [WONDER database](#).

Oregon has also been faring worse than its neighbors, including California and Washington. Opioid-involved overdose deaths increased by 101% in Oregon between 2020 and 2022, compared to 77% in Washington, 36% in California, and 20% nationally, the [CDC](#) reported. Over that same period, overdose deaths involving synthetic opioids (primarily fentanyl) increased by 261% in Oregon, 185% in Washington, 64% in California, and 33% nationally.

The same trend has followed for psychostimulants with abuse potential (primarily meth), the second most common drug class implicated in overdose deaths. Between 2020 and 2022, overdose deaths with psychostimulants with abuse potential (primarily meth) increased by 112% in Oregon, compared to 93% in Washington, 34% in California, and 44% nationally.

Given that these states receive a similar drug supply along the I-5 corridor—from Mexico, through California, Oregon, and Washington, up to Canada—it is safe to say that Measure 110 appears to be a variable that helps explain the different outcomes between these states.

The number of nonfatal overdoses is also revealing. The White House Office of National Drug Control Policy has said, “a non-fatal overdose is [a leading predictor](#) for a future fatal overdose.” Between 2019 and 2020, the number of nonfatal overdose emergency department visits in Oregon decreased by 4%, according to the CDC’s [DOSE dashboard](#). This has since reversed. Between 2021 and 2022, Oregon was one of only three states that reported an increased rate of nonfatal overdose emergency department visits. Oregon is also one of only two states that had a rate of nonfatal overdoses more than 200% above the national average between February 5, 2023, and February 4, 2024, according to the [National EMS Information System \(NEMSIS\)](#). Multnomah County, home to Portland, had the highest rate of nonfatal overdoses in the nation among counties with more than 80,000 people.

In 2022, there were 1,392 overdose deaths and [6,551 nonfatal overdose emergency department visits](#) in Oregon. Notably, the latter is an undercount because not everyone who overdoses goes to the hospital.

Underlying these trends in fatal and nonfatal overdoses is a shift in illicit drug use. A comparison of the state-level estimates of the National Survey on Drug Use and Health (NSDUH) from [2018–2019](#) and [2021–2022](#) indicates that illicit drug use has increased in Oregon since the passage and implementation of Measure 110.

Oregon now has the highest rate of past-month illicit drug use (not including marijuana) in the nation, and this measure increased 6.9 times faster in Oregon than it did nationwide. Similarly, past-month illicit drug use (with marijuana) increased by 21.1% in Oregon, reaching the second highest level in the nation. For context, illicit drug use increased by 9.7% in California and 16.8% in Washington.

The NSDUH estimates also suggest that Measure 110 has signaled to Oregonians that drugs are not as risky. Oregon went from being the state with the 8th lowest percentage of residents who said there is great risk associated with trying heroin once or twice to having the lowest percentage in the nation. Likewise, Oregon now has the lowest percentage of residents who said there is great risk associated with using cocaine once a month and the 3rd lowest percentage of residents who said there is great risk associated with smoking marijuana once a month.

Notably, overdoses are not the only fatalities attributed to Measure 110, as there has also been an increase in traffic fatalities due to impaired driving.

Oregon’s [Department of Transportation](#) said the passage of Measure 110 “has resulted in a predictable increase in drug-impaired driving crashes and related injuries and deaths.” Oregon’s Triennial Highway Safety Plan said, “Measure 110, in combination with Oregon’s previous legalization of recreational cannabis possession, appears to be a [significant factor in the increase in drug-impaired driving and related crashes](#).” Because of Measure 110, the report added, “it is anticipated that the poly-substance crash trend will only continue upward.”

The Oregon Health Authority said, “244 organizations received approximately [\\$265 million in Measure 110 grant funds](#)” between 2021 and 2023. This funding, as a result of Measure 110, has supported treatment, harm reduction, peer support services, and more. While we recognize that many of these services are needed and fill existing gaps in the state, these could have been provided without decriminalizing the possession of hard drugs. For example, California, which has not implemented a policy like Measure 110, offers many of these same services.

The number of treatment admissions statewide would have helped assess the effects of Measure 110 and whether more people are actually accessing treatment, yet Oregon is one of only four states that did not provide admissions data to SAMHSA’s [Treatment Episode Data Set](#). By drawing on data that we do have, the [treatment hotline](#) set up by Measure 110, it is unlikely that there has been an increase in treatment admissions.

Between 2020 and 2023, the number of individuals experiencing homelessness increased by 10.8% in Oregon, while it decreased by 3.5% in California and 4.8% in Washington, according to the U.S. [Department of Housing and Urban Development](#). A [poll](#) from August 2023 found that 62% of voters in Oregon think Measure 110 has made the “homeless crisis” worse, while only 2% think it has made it better. The *Associated Press* reported that public drug use in Oregon is “[rampant](#).”

In October 2023, the Board of Commissioners of Douglas County, along with the District Attorney and County Sherriff, sent a letter to the legislature, urging them to repeal Measure 110. The leaders of Oregon’s 9th largest county said, “the decriminalization of certain drug possessions has [compromised public safety](#) by reducing the deterrent effect of law enforcement efforts.” Indeed, the violent crime rate increased by 17.3% in Oregon between 2020 and 2022, despite decreasing 4.5% nationally, according to the FBI’s [Uniform Crime Reporting Program](#).

As you are aware, Governor Tina Kotek, Portland Mayor Ted Wheeler, and Multnomah County Chair Jessice Vega Pederson declared a [state of emergency](#) last month due to the drug crisis.

To be sure, no one is calling for putting people behind bars for their addiction—these people need and deserve treatment. However, Measure 110 appears to have removed one policy lever that was often used to guide people into treatment.

According to a February 2023 memo from the [Oregon Criminal Justice Commission](#), the number of participants in specialty courts for the possession of controlled substances (PCS) has markedly declined since Measure 110. In the period January–December 2020, there were 413 PCS only participants. From November 2021–October 2022, this declined to 104. Beyond that, the memo noted, “Of the 104 specialty court participants identified as PSC Only from November 2021 to October 2022, 88 percent were in specialty court on a pre-M110 PCS charge.”

The memo provides further evidence of how Measure 110 has undermined the ability of drug courts to operate as intended, stating, “The Multnomah County STOP Court provides a direct example of the impact of Ballot Measure 11.” The memo explained: “In 2020, the STOP Court had a total population of 139, with 138 of those participants classified as PCS only...Renamed the Multnomah County STEP (Strategic Treatment and Engagement Program) Court, this new entity is designed to serve defendants charged with certain violent felonies, with the goal of addressing underlying addiction issues related to participants’ criminal offending. This new Court, which began operations in mid-2021, reported 42 participants between November 2021 and October 2022, none of which were classified as PCS only.” Again, the Multnomah County specialty court served no PCS individuals between November 2021 and October 2022, down from 138 in 2020.

To overcome and address this issue, we find that HB 4002 must make additional legislative changes that will better facilitate the use of drug courts. As you may know, drug courts provide individuals with a substance use disorder with an alternative to incarceration and a pathway to treatment. Upon completion of this program, the drug-related charge is kept off of the individuals’ criminal record; if the individual does not complete the program, they are often sent to jail. These motivators are credited for helping vulnerable individuals complete treatment and enter recovery. The Trump and Biden administrations have separately endorsed the use of drug courts. These programs are not political and have been in use in Oregon.

On February 21st, the *Oregonian* reported, “Leading Democratic lawmakers are [finalizing proposed changes](#) to Measure 110 that would make minor drug possession a crime again and give the accused multiple chances to avoid jail time.” *KTVL10* reported [the plans](#) include the creation of a new misdemeanor class, probation as an alternative to jail, and the use of pre-trial diversion in counties that opt in. These changes are a step in the right direction and are better than the current alternative of Measure 110. However, they should go further and allow law enforcement to serve as a linkage to treatment. Given that few individuals voluntarily seek treatment and the drug supply is increasingly lethal, policymakers should rely on all available policy levers to guide individuals into treatment and recovery.

Though Measure 110 passed with 58% of the votes in November 2020, a poll from August 2023 found that only 2% of voters think Measure 110 has been a success, compared to 61% that think [it has been a failure](#).

Alongside the change in heart among the public, the Oregon League of Cities, the Oregon Association Chiefs of Police, the Oregon District Attorneys Association, and the Oregon State Sheriff’s Association have [jointly called](#) for the reclassification of possession from a Class E violation to a Class A misdemeanor, among other recommendations like prohibiting public drug use. This specific reform would enable policymakers to guide individuals into a drug court.

The joint proposal from these organizations recommended that lawmakers “prioritize adequate and sustainable funding for Oregon’s Specialty Courts.” They explained, “Inadequate state funding of Oregon’s specialty courts is the biggest threat to their long-term effectiveness and stability. In fact, Specialty Courts in several jurisdictions (including Multnomah, Deschutes and Benton County) are at risk of discontinuing their operations.” Their letter continued, “Specialty Courts combine accountability and supervision with a treatment-oriented approach that effectively addresses addiction and reduces recidivism rates among participants...The approach has an established track record of success that addresses addiction and equips participants with the tools and support necessary to reintegrate into community life as productive citizens.” Oregon’s leading law enforcement groups recognize the important role that specialty courts, like drug courts, play in addressing the drug crisis.

In the three years since it was implemented, there is now bipartisan agreement that Measure 110 has been a [failed policy experiment](#). Senate Majority Leader Kate Lieber said, “there has been a change in the mood of the electorate,” acknowledging that voters “realize that [things are not working](#).” I commend policymakers for doing the vital work to reform Measure 110.