

# Senate Bill 1211

Sponsored by Senator HAYDEN

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

**Digest:** The Act directs the court to enter an order prohibiting gun possession by a person charged with some drug possession crimes. The Act also requires that deflection programs restrict the possession of guns by people in the program. The Act goes into effect when the Governor signs it. (Flesch Readability Score: 61.9).

Directs the court to enter an order, at the first appearance on a charge of misdemeanor unlawful possession of a controlled substance, prohibiting the charged person from possessing a firearm. Specifies a process for surrendering firearms and the return of firearms. Specifies the circumstances when the court must terminate the order. Provides that possession of a firearm by the prohibited person is punishable by a maximum of 364 days' imprisonment, a \$6,250 fine, or both.

Requires that deflection programs, including those receiving grant funding, require participants to transfer all firearms to a law enforcement agency, a gun dealer or a third party until the program is completed.

Declares an emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the possession of firearms by certain persons; creating new provisions; amending ORS  
3 166.250 and sections 36 and 76, chapter 70, Oregon Laws 2024; and declaring an emergency.

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

5 **SECTION 1. (1) It is unlawful for a person to knowingly possess a firearm if the person**  
6 **is the subject of a court order prohibiting the person from possessing firearms under sub-**  
7 **section (2)(a) of this section.**

8 **(2)(a) At a first appearance on a disqualifying drug offense, the court shall enter an order**  
9 **prohibiting the person from possessing firearms as follows:**

10 **(A) Except as provided in subparagraph (B) of this paragraph, the court shall enter a**  
11 **written order prohibiting the person from possessing firearms until the person demonstrates,**  
12 **and the court finds by a preponderance of the evidence, that the person has completed a**  
13 **substance use disorder assessment or screening, and any course of treatment recommended**  
14 **by the assessment or screening.**

15 **(B) For a disqualifying drug offense for which prosecution is commenced after a court**  
16 **order described in subparagraph (A) of this paragraph has been terminated under subsection**  
17 **(6)(a)(A) of this section, the court shall enter a written order prohibiting the person from**  
18 **possessing firearms until the person is able to demonstrate and the court finds, by a pre-**  
19 **ponderance of the evidence, that the person has abstained from using controlled substances**  
20 **for a period of one year.**

21 **(b) Upon entering an order described in paragraph (a) of this subsection, the court shall**  
22 **additionally order in writing that the person:**

23 **(A) Transfer all firearms in the person's possession in accordance with subsection (3) of**  
24 **this section; and**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (B) File a declaration as described in subsection (4) of this section.

2 (c) The court shall ensure that the court order described in paragraph (a) of this sub-  
 3 section is entered into the Law Enforcement Data System and any other state and national  
 4 databases necessary to ensure the enforcement of the court's order.

5 (3)(a) Within 24 hours of becoming subject to the court orders described in subsection (2)  
 6 of this section, the person shall transfer all firearms in the person's possession to a local law  
 7 enforcement agency, to a gun dealer as defined in ORS 166.412 or to a third party who does  
 8 not reside with the person, and shall obtain a proof of transfer under paragraph (b) of this  
 9 subsection. A transfer to a third party under this subsection must be in accordance with  
 10 ORS 166.435, except that the criminal background check exceptions in ORS 166.435 (4) do not  
 11 apply.

12 (b) A law enforcement agency, gun dealer or third party receiving a firearm pursuant to  
 13 this subsection shall issue to the person a written proof of transfer. The proof of transfer  
 14 must include the person's name, the date of transfer and the serial number, make and model  
 15 of each transferred firearm. A proof of transfer issued by a third party must also include the  
 16 unique approval number from the Department of State Police from the criminal background  
 17 check conducted under ORS 166.435.

18 (c) A person transferring a firearm to a third party under this subsection shall addi-  
 19 tionally obtain from the third party a declaration under penalty of perjury confirming receipt  
 20 of the firearm and attesting that:

21 (A) The third party understands that the person is prohibited from possessing firearms;  
 22 and

23 (B) The third party is subject to criminal penalties if the third party allows the person  
 24 access to the firearm during the prohibition.

25 (d) A law enforcement agency may accept a firearm transferred under this section.

26 (e) A gun dealer may purchase or may accept for storage a firearm transferred under  
 27 this section.

28 (4)(a) Within two judicial days of becoming subject to the court orders described in sub-  
 29 section (2) of this section, the person shall file with the court a declaration under penalty  
 30 of perjury attesting that:

31 (A) All firearms in the person's possession have been transferred under subsection (3)  
 32 of this section to:

33 (i) A law enforcement agency;

34 (ii) A gun dealer; or

35 (iii) A third party;

36 (B) The person was not in possession of any firearms at the time of the court's order  
 37 and continues to not possess any firearms; or

38 (C) The person is asserting the person's constitutional right against self-incrimination.

39 (b) The person shall file with the declaration a copy of the proof of transfer, if applicable,  
 40 and a copy of the third party declaration, if applicable.

41 (c) The person shall concurrently file with the district attorney copies of the declaration,  
 42 proof of transfer and third party declaration filed with the court.

43 (d) If the person does not file a declaration described in paragraph (a) of this subsection,  
 44 the district attorney may commence contempt proceedings under ORS 33.015 to 33.155.

45 (5) A person in possession of a firearm in violation of a court order described in sub-

1 section (2)(a) of this section may not be prosecuted under ORS 166.250 or for contempt of  
2 court if:

3 (a) The person is in possession of a copy of the court order, and the order went into ef-  
4 fect or was issued within the previous 24 hours;

5 (b) The firearm is unloaded; and

6 (c) The person is transporting the firearm to a law enforcement agency, gun dealer or  
7 third party for transfer in accordance with subsection (3) of this section.

8 (6)(a) The court shall terminate the order described in subsection (2)(a) of this section  
9 as follows:

10 (A) For a court order described in subsection (2)(a)(A) of this section, the court shall  
11 terminate the order upon a finding, by a preponderance of the evidence, that the person has  
12 completed a substance use disorder assessment or screening, and any course of treatment  
13 recommended by the assessment or screening.

14 (B) For a court order described in subsection (2)(a)(B) of this section, the court shall  
15 terminate the order upon a finding, by a preponderance of the evidence, that the person has  
16 abstained from using controlled substances for a period of one year.

17 (b) The court may base a finding described in paragraph (a)(B) of this subsection on  
18 documentation from a health care professional or treatment counselor with personal knowl-  
19 edge of the person's use of controlled substances.

20 (c) The court shall ensure that the termination of the court order is entered into the Law  
21 Enforcement Data System and any other state and national databases.

22 (d) Upon the termination, and at the request of the person:

23 (A) A law enforcement agency shall return any stored firearms to the person in accord-  
24 ance with subsection (7) of this section.

25 (B) A gun dealer shall return any stored firearms to the person after performing a  
26 criminal background check as defined in ORS 166.432 to confirm that the person is not pro-  
27 hibited from possessing a firearm under state or federal law.

28 (C) A third party shall return any stored firearms to the person only after requesting a  
29 criminal background check in accordance with ORS 166.435, except that the criminal back-  
30 ground check exceptions in ORS 166.435 (4) do not apply.

31 (7)(a) Upon receiving a request to return a firearm relinquished to a law enforcement  
32 agency pursuant to subsection (3) of this section, the law enforcement agency shall hold the  
33 firearm for 72 hours after receiving the request.

34 (b) Prior to returning the firearm, the law enforcement agency shall:

35 (A) Confirm that the person to whom the law enforcement agency will return the firearm  
36 is the lawful owner of the firearm, or a person with a possessory right to the firearm; and

37 (B) Perform a criminal background check as defined in ORS 166.432 to confirm that the  
38 person is not prohibited from possessing a firearm under state or federal law.

39 (8) As used in this section, "disqualifying drug offense" means:

40 (a) Unlawful possession of a controlled substance constituting a drug enforcement  
41 misdemeanor as described in section 35, chapter 70, Oregon Laws 2024; or

42 (b) Unlawful possession of a controlled substance constituting a Class A misdemeanor  
43 under ORS 475.752 (7)(a) or (8), 475.814 (2)(b), 475.824 (2)(b), 475.834 (2)(b), 475.854 (2)(b),  
44 475.874 (2)(b), 475.884 (2)(b) or 475.894 (2)(b).

45 **SECTION 2.** Section 36, chapter 70, Oregon Laws 2024, is amended to read:

1       **Sec. 36.** (1) Law enforcement agencies in this state are encouraged to, in lieu of citation or  
 2 arrest, or after citation or arrest but before referral to the district attorney, refer a person to a  
 3 deflection program when the person is suspected of committing, or has been cited or arrested for,  
 4 unlawful possession of a controlled substance constituting a drug enforcement misdemeanor under  
 5 section 35 [of this 2024 Act], **chapter 70, Oregon Laws 2024.**

6       (2) District attorneys in this state are encouraged to divert for assessment, treatment and other  
 7 services, in lieu of conviction, cases involving unlawful possession of a controlled substance consti-  
 8 tuting a drug enforcement misdemeanor under section 35 [of this 2024 Act], **chapter 70, Oregon**  
 9 **Laws 2024.**

10       (3) If a deflection program is established, the program coordinator shall be responsible for pro-  
 11 viding notification that a person has completed the program to those entities responsible for sealing  
 12 records under section 54 [of this 2024 Act], **chapter 70, Oregon Laws 2024**, including but not limited  
 13 to law enforcement agencies, district attorneys and courts.

14       **(4) If a deflection program is established in which a participant is able to enter and**  
 15 **complete the program without making a court appearance on a charge, the program must**  
 16 **have a requirement that all participants, as a condition of participation, agree to not possess**  
 17 **firearms for the duration of the program, and to lawfully transfer all firearms in the**  
 18 **participant’s possession to a law enforcement agency, a gun dealer or a third party until the**  
 19 **program is completed.**

20       [(4)] (5) As used in this section, “deflection program” has the meaning given that term in section  
 21 37 [of this 2024 Act], **chapter 70, Oregon Laws 2024.**

22       **SECTION 3.** Section 76, chapter 70, Oregon Laws 2024, is amended to read:

23       **Sec. 76.** (1) As used in this section, “deflection program” means a collaborative program be-  
 24 tween law enforcement agencies and behavioral health entities that assists individuals who may  
 25 have substance use disorder, another behavioral health disorder or co-occurring disorders, to create  
 26 community-based pathways to treatment, recovery support services, housing, case management or  
 27 other services.

28       (2) The Oregon Behavioral Health Deflection Program is established within the Improving  
 29 People’s Access to Community-based Treatment, Supports and Services Grant Review Committee  
 30 established under ORS 430.234. The program consists of grants awarded by the committee to coun-  
 31 ties and federally recognized tribal governments to fund deflection programs.

32       (3)(a) The purpose of the program described in this section is to:

33       (A) Address the need for more deflection programs to assist individuals whose behavioral health  
 34 conditions, including substance use disorder, lead to interactions with law enforcement,  
 35 incarceration, conviction and other engagement with the criminal justice system.

36       (B) Track and report data concerning deflection program outcomes in order to determine the  
 37 best practices for deflection programs within this state.

38       (b) ORS 430.230 to 430.236 do not apply to the program described in this section.

39       (4)(a) The committee shall develop a grant application process for awarding grants under this  
 40 section.

41       (b) An application for a grant under this section may be submitted by a county or the designee  
 42 of a county, or by a tribal government or designee of a tribal government. Only one application per  
 43 county may be submitted, but the application may request funding multiple programs within a  
 44 county.

45       (c) Prior to submitting an application for a grant under this section, the applicant shall coordi-

1 nate with all partners of the development and administration of the proposed deflection program to  
 2 ensure that the partners have the resources necessary to implement the deflection program. The  
 3 partners shall include at least a district attorney, a law enforcement agency, a community mental  
 4 health program established under ORS 430.620 and a provider from a Behavioral Health Resource  
 5 Network established under ORS 430.389. Partners may also include a treatment provider, a local  
 6 mental health authority, a tribal government, a peer support organization, a court or a local gov-  
 7 ernment body.

8 (d) An application for a grant under this section must contain:

9 (A) A description of the coordination with program partners required by paragraph (c) of this  
 10 subsection that has occurred;

11 (B) A description of the individuals who would be eligible for the program and what qualifies  
 12 as a successful outcome, formulated in cooperation with the program partners described in para-  
 13 graph (c) of this subsection;

14 (C) A description of how the program for which the applicant is seeking funding is culturally  
 15 and linguistically responsive, trauma-informed and evidence-based;

16 (D) A description of a plan to address language access barriers when communicating program  
 17 referral options and program procedures to non-English speaking individuals; and

18 (E) A description of how the program coordinator will communicate with program partners  
 19 concerning persons participating in the program and any other matter necessary for the adminis-  
 20 tration of the program.

21 (5) To be eligible for funding under this section, a deflection program:

22 (a) Must be coordinated by or in consultation with a community mental health program, a local  
 23 mental health authority or a federally recognized tribal government;

24 (b) Must have a coordinator with the following program coordinator duties:

25 (A) Convening deflection program partners as needed for the operation of the program;

26 (B) Managing grant program funds awarded under this section; and

27 (C) Tracking and reporting data required by the Oregon Criminal Justice Commission under  
 28 section 37 [of this 2024 Act], **chapter 70, Oregon Laws 2024**;

29 (c) Must involve the partners described in subsection (4)(c) of this section; *[and]*

30 (d) May involve a partnership with one or more of the following entities:

31 (A) A first responder agency other than a law enforcement agency;

32 (B) A community provider;

33 (C) A treatment provider;

34 (D) A community-based organization;

35 (E) A case management provider;

36 (F) A recovery support services provider; or

37 (G) Any other individual or entity deemed necessary by the program coordinator to carry out  
 38 the purposes of the deflection program, including individuals with lived experience with substance  
 39 use disorder, a behavioral health disorder or co-occurring disorders[.]; **and**

40 **(e) Must have, if a participant is able to enter and complete the program without making**  
 41 **a court appearance on a charge, a requirement that all participants, as a condition of par-**  
 42 **ticipation, agree to not possess firearms for the duration of the program, and to lawfully**  
 43 **transfer all firearms in the participant's possession or control to a law enforcement agency,**  
 44 **a gun dealer or a third party until the program is completed.**

45 (6) During a grant application period established by the committee, the maximum proportion of

1 grant funds available to an applicant shall be determined as follows:

2 (a) The proportion of grant funds available to an applicant other than a tribal government shall  
 3 be determined based on the county formula share employed by the Oversight and Accountability  
 4 Council established under ORS 430.388, but an applicant may not receive less than \$150,000.

5 (b) The committee shall determine the proportion of funds available to an applicant that is a  
 6 federally recognized tribal government.

7 (7)(a) Grant funds awarded under this section may be used for:

8 (A) Deflection program expenses including but not limited to law enforcement employees, deputy  
 9 district attorneys and behavioral health treatment workers, including peer navigators and mobile  
 10 crisis and support services workers.

11 (B) Behavioral health workforce development.

12 (C) Capital construction of behavioral health treatment infrastructure.

13 (b) Notwithstanding paragraph (a) of this subsection, the committee may award planning grants  
 14 for the development of deflection programs.

15 (c) The committee may allocate up to three percent of program funds to support grantee data  
 16 collection and analysis or evaluation of outcome measures.

17 (8) The Oregon Criminal Justice Commission shall provide staff support to the grant program.

18 (9) The committee and the commission may adopt rules to carry out the provisions of this sec-  
 19 tion.

20 **SECTION 4.** ORS 166.250 is amended to read:

21 166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.273,  
 22 166.274, 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession  
 23 of a firearm if the person knowingly:

24 (a) Carries any firearm concealed upon the person;

25 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-  
 26 cle;

27 (c) Possesses a firearm and:

28 (A) Is under 18 years of age;

29 (B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having  
 30 committed an act which, if committed by an adult, would constitute a felony or a misdemeanor in-  
 31 volving violence, as defined in ORS 166.470; and

32 (ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being  
 33 charged under this section;

34 (C) Has been convicted of a felony;

35 (D) Was committed to the Oregon Health Authority under ORS 426.130;

36 (E) Was found to be a person with mental illness and subject to an order under ORS 426.130 that  
 37 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

38 (F) Is presently subject to an order under ORS 426.133 prohibiting the person from purchasing  
 39 or possessing a firearm;

40 (G) Has been found guilty except for insanity under ORS 161.295 of a felony; or

41 (H) The possession of the firearm by the person is prohibited under ORS 166.255 **or section 1**  
 42 **(1) of this 2025 Act;** or

43 (d) Possesses an unfinished frame or receiver and is prohibited from possessing firearms under  
 44 paragraph (c) of this subsection.

45 (2) This section does not prohibit:

1 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-  
2 sessing a firearm:

3 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or  
4 guardian or by another person with the consent of the minor's parent or guardian; or

5 (B) Temporarily for hunting, target practice or any other lawful purpose; or

6 (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily  
7 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270  
8 and subsection (1) of this section, from owning, possessing or keeping within the person's place of  
9 residence or place of business any handgun, and no permit or license to purchase, own, possess or  
10 keep any such firearm at the person's place of residence or place of business is required of any such  
11 citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle  
12 while used, for whatever period of time, as residential quarters.

13 (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

14 (4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a handgun is readily ac-  
15 cessible within the meaning of this section if the handgun is within the passenger compartment of  
16 the vehicle.

17 (b) If a vehicle, other than a vehicle described in paragraph (c) of this subsection, has no storage  
18 location that is outside the passenger compartment of the vehicle, a handgun is not readily acces-  
19 sible within the meaning of this section if:

20 (A) The handgun is stored in a closed and locked glove compartment, center console or other  
21 container; and

22 (B) The key is not inserted into the lock, if the glove compartment, center console or other  
23 container unlocks with a key.

24 (c) If the vehicle is a motorcycle, an all-terrain vehicle or a snowmobile, a handgun is not  
25 readily accessible within the meaning of this section if:

26 (A) The handgun is in a locked container within or affixed to the vehicle; or

27 (B) The handgun is equipped with a trigger lock or other locking mechanism that prevents the  
28 discharge of the firearm.

29 (5) Unlawful possession of a firearm is a Class A misdemeanor.

30 **SECTION 5. This 2025 Act being necessary for the immediate preservation of the public**  
31 **peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect**  
32 **on its passage.**

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