

# Senate Bill 507

Sponsored by Senator SMITH DB (Pre-session filed.)

## 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 makes separate statutes for fentanyl crimes. The Act also increases sentences for some fentanyl crimes. The Act goes into effect when the Governor signs it. (Flesch Readability Score: 66.1).

Separates the possession, delivery and manufacture of fentanyl from general controlled substance offense statutes into separate statutes.

Establishes a mandatory minimum sentence for the delivery of fentanyl to a person under 18 years of age. Beginning July 1, 2033, prohibits optional probation or a downward departure as a sentence for the manufacture or delivery of fentanyl if a person has a previous conviction.

Declares an emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to fentanyl; creating new provisions; amending ORS 423.478, 475.245, 475.752, 475.898,  
3 475.900, 475.907 and 475.934 and sections 35 and 52, chapter 70, Oregon Laws 2024; and declar-  
4 ing an emergency.

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

6 **SECTION 1. Sections 2 to 6 of this 2025 Act are added to and made a part of ORS 475.806**  
7 **to 475.894.**

8 **SECTION 2. (1) It is unlawful for any person knowingly or intentionally to possess**  
9 **fentanyl, or any substituted derivative of fentanyl as defined by the rules of the State Board**  
10 **of Pharmacy, unless the fentanyl or derivative was obtained directly from, or pursuant to a**  
11 **valid prescription or order of, a practitioner while acting in the course of professional prac-**  
12 **tice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.**

13 **(2)(a) Unlawful possession of fentanyl is a drug enforcement misdemeanor punishable as**  
14 **described in section 35, chapter 70, Oregon Laws 2024.**

15 **(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of fentanyl is**  
16 **a Class A misdemeanor if the person possesses one gram or more or five or more user units**  
17 **of a mixture or substance containing a detectable amount of fentanyl, or any substituted**  
18 **derivative of fentanyl as defined by the rules of the State Board of Pharmacy.**

19 **(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of**  
20 **fentanyl is a Class C felony if:**

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

22 **(B) The person possesses a substantial quantity under ORS 475.900 (3)(b).**

23 **SECTION 3. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it**  
24 **is unlawful for any person to deliver fentanyl, or any substituted derivative of fentanyl as**  
25 **defined by the rules of the State Board of Pharmacy.**

26 **(2) Unlawful delivery of fentanyl is a Class B felony.**

27 **(3) Notwithstanding subsection (2) of this section, unlawful delivery of fentanyl is a Class**

**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 **A felony if the delivery is to a person under 18 years of age.**

2 **SECTION 4. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it**  
 3 **is unlawful for any person to deliver fentanyl, or any substituted derivative of fentanyl as**  
 4 **defined by the rules of the State Board of Pharmacy, within 1,000 feet of the real property**  
 5 **comprising a public or private elementary, secondary or career school attended primarily by**  
 6 **minors.**

7 **(2) Unlawful delivery of fentanyl within 1,000 feet of a school is a Class A felony.**

8 **SECTION 5. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it**  
 9 **is unlawful for any person to manufacture fentanyl, or any substituted derivative of fentanyl**  
 10 **as defined by the rules of the State Board of Pharmacy.**

11 **(2) Unlawful manufacture of fentanyl is a Class B felony.**

12 **SECTION 6. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it**  
 13 **is unlawful for any person to manufacture fentanyl, or any substituted derivative of fentanyl**  
 14 **as defined by the rules of the State Board of Pharmacy, within 1,000 feet of the real property**  
 15 **comprising a public or private elementary, secondary or career school attended primarily by**  
 16 **minors.**

17 **(2) Unlawful manufacture of fentanyl within 1,000 feet of a school is a Class A felony.**

18 **SECTION 7.** ORS 475.752, as amended by sections 28 and 39, chapter 70, Oregon Laws 2024, is  
 19 amended to read:

20 475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful  
 21 for any person to manufacture or deliver a controlled substance. Any person who violates this sub-  
 22 section with respect to:

23 (a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise pro-  
 24 vided in ORS 475.886 and 475.890.

25 (b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise  
 26 provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906 **and sections 3, 4 and 6 of this 2025**  
 27 **Act.**

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

30 (d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

31 (e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

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

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

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

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

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

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

40 (3) It is unlawful for any person knowingly or intentionally to possess a controlled substance  
 41 unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a  
 42 practitioner while acting in the course of professional practice, or except as otherwise authorized  
 43 by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with re-  
 44 spect to:

45 (a) A controlled substance in Schedule I, is guilty of a drug enforcement misdemeanor

1 punishable as described in section 35, chapter 70, Oregon Laws 2024, except as otherwise provided  
2 in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

3 (b) A controlled substance in Schedule II, is guilty of a drug enforcement misdemeanor  
4 punishable as described in section 35, chapter 70, Oregon Laws 2024, except as otherwise provided  
5 in ORS 475.814, 475.824, 475.834 or 475.884 or **section 2 of this 2025 Act** or subsection (8) of this  
6 section.

7 (c) A controlled substance in Schedule III, is guilty of a drug enforcement misdemeanor  
8 punishable as described in section 35, chapter 70, Oregon Laws 2024.

9 (d) A controlled substance in Schedule IV, is guilty of a drug enforcement misdemeanor  
10 punishable as described in section 35, chapter 70, Oregon Laws 2024.

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

12 (4) It is an affirmative defense in any prosecution under this section for manufacture, possession  
13 or delivery of the plant of the genus *Lophophora* commonly known as peyote that the peyote is being  
14 used or is intended for use:

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

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

17 (c) In a manner that is not dangerous to the health of the user or others who are in the prox-  
18 imity of the user.

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

21 (6)(a) Notwithstanding subsection (1) of this section, a person who unlawfully manufactures or  
22 delivers a controlled substance in Schedule IV and who thereby causes death to another person is  
23 guilty of a Class C felony.

24 (b) For purposes of this subsection, causation is established when the controlled substance plays  
25 a substantial role in the death of the other person.

26 (7) Notwithstanding subsection (3)(a) of this section:

27 (a) Unlawful possession of a controlled substance in Schedule I is a Class A misdemeanor if the  
28 person possesses:

29 (A) Forty or more user units of a mixture or substance containing a detectable amount of  
30 lysergic acid diethylamide; or

31 (B) Twelve grams or more of a mixture or substance containing a detectable amount of  
32 psilocybin or psilocin.

33 (b) Unlawful possession of a controlled substance in Schedule I is a Class B felony if:

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

35 (B) The person possesses a substantial quantity under ORS 475.900 (3)(b).

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

37 *[(a) Unlawful possession of a controlled substance in Schedule II is a Class A misdemeanor if the*  
38 *person possesses one gram or more or five or more user units of a mixture or substance containing a*  
39 *detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the*  
40 *State Board of Pharmacy.]*

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

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

43 *[(B)]* (b) The person possesses a substantial quantity under ORS 475.900 (3)(b).

44 **SECTION 8.** ORS 475.900, as amended by section 25, chapter 70, Oregon Laws 2024, is amended  
45 to read:

1 475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified  
2 as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

3 (a) The violation constitutes delivery or manufacture of a controlled substance and involves  
4 substantial quantities of a controlled substance. For purposes of this paragraph, the following  
5 amounts constitute substantial quantities of the following controlled substances:

6 (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

7 (B) Five grams or more or 25 or more user units of a mixture or substance containing a de-  
8 tectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the  
9 State Board of Pharmacy;

10 (C) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

11 (D) Ten grams or more of a mixture or substance containing a detectable amount of metham-  
12 phetamine, its salts, isomers or salts of its isomers;

13 (E) Two hundred or more user units of a mixture or substance containing a detectable amount  
14 of lysergic acid diethylamide;

15 (F) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin  
16 or psilocin; or

17 (G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance con-  
18 taining a detectable amount of:

19 (i) 3,4-methylenedioxyamphetamine;

20 (ii) 3,4-methylenedioxymethamphetamine; or

21 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

22 (b) The violation constitutes possession, delivery or manufacture of a controlled substance and  
23 the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or  
24 manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at  
25 least three of the following factors:

26 (A) The delivery was of heroin, fentanyl, cocaine, methamphetamine, lysergic acid diethylamide,  
27 psilocybin or psilocin and was for consideration;

28 (B) The offender was in possession of \$300 or more in cash;

29 (C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS  
30 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous  
31 weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly  
32 or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a  
33 controlled substance offense;

34 (D) The offender was in possession of materials being used for the packaging of controlled sub-  
35 stances such as scales, wrapping or foil, other than the material being used to contain the substance  
36 that is the subject of the offense;

37 (E) The offender was in possession of drug transaction records or customer lists;

38 (F) The offender was in possession of stolen property;

39 (G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled  
40 substance offense;

41 (H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor  
42 chemicals, laboratory equipment, lighting, ventilating or power generating equipment;

43 (I) The offender was using public lands for the manufacture of controlled substances;

44 (J) The offender had constructed fortifications or had taken security measures with the potential  
45 of injuring persons; or

- 1 (K) The offender was in possession of controlled substances in an amount greater than:
- 2 (i) Three grams or more of a mixture or substance containing a detectable amount of heroin;
- 3 (ii) Three grams or more or 15 or more user units of a mixture or substance containing a de-
- 4 tectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the
- 5 State Board of Pharmacy;
- 6 (iii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;
- 7 (iv) Eight grams or more of a mixture or substance containing a detectable amount of metham-
- 8 phetamine;
- 9 (v) Twenty or more user units of a mixture or substance containing a detectable amount of
- 10 lysergic acid diethylamide;
- 11 (vi) Ten grams or more of a mixture or substance containing a detectable amount of psilocybin
- 12 or psilocin; or
- 13 (vii) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance
- 14 containing a detectable amount of:
- 15 (I) 3,4-methylenedioxyamphetamine;
- 16 (II) 3,4-methylenedioxymethamphetamine; or
- 17 (III) 3,4-methylenedioxy-N-ethylamphetamine.
- 18 (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.868, 475.872, 475.878,
- 19 475.882, 475.888, 475.892 or 475.904 **or section 4 or 6 of this 2025 Act.**
- 20 (d) The violation constitutes manufacturing methamphetamine and the manufacturing consists
- 21 of:
- 22 (A) A chemical reaction involving one or more precursor substances for the purpose of manu-
- 23 facturing methamphetamine; or
- 24 (B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of
- 25 manufacturing methamphetamine.
- 26 (e) The violation constitutes a violation of ORS 475.906 (1) or (2) that is not described in ORS
- 27 475.907.
- 28 (2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 7 of
- 29 the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation consti-
- 30 tutes delivery for consideration of heroin, cocaine, fentanyl, methamphetamine or
- 31 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or
- 32 3,4-methylenedioxy-N-ethylamphetamine and:
- 33 (a) The person knows, or reasonably should have known, that the delivery is occurring within
- 34 500 feet of the real property comprising a treatment facility;
- 35 (b) The person knows, or reasonably should have known, that the delivery is occurring within
- 36 500 feet of the real property comprising a temporary residence shelter; or
- 37 (c) The delivery occurs within 30 feet of the real property comprising a public park.
- 38 (3) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of
- 39 the sentencing guidelines grid of the Oregon Criminal Justice Commission if:
- 40 (a) The violation constitutes delivery of heroin, cocaine, fentanyl, methamphetamine or
- 41 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or
- 42 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.
- 43 (b) The violation constitutes possession of substantial quantities of a controlled substance. For
- 44 purposes of this paragraph, the following amounts constitute substantial quantities of the following
- 45 controlled substances:

- 1 (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;
- 2 (B) Five grams or more or 25 or more user units of a mixture or substance containing a de-
- 3 tectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the
- 4 State Board of Pharmacy;
- 5 (C) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;
- 6 (D) Ten grams or more of a mixture or substance containing a detectable amount of metham-
- 7 phetamine;
- 8 (E) Two hundred or more user units of a mixture or substance containing a detectable amount
- 9 of lysergic acid diethylamide;
- 10 (F) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin
- 11 or psilocin; or
- 12 (G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance con-
- 13 taining a detectable amount of:
- 14 (i) 3,4-methylenedioxyamphetamine;
- 15 (ii) 3,4-methylenedioxymethamphetamine; or
- 16 (iii) 3,4-methylenedioxy-N-ethylamphetamine.
- 17 (4) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 5 of
- 18 the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation consti-
- 19 tutes delivery of heroin, cocaine, fentanyl, methamphetamine or 3,4-methylenedioxyamphetamine,
- 20 3,4-methylenedioxymethamphetamine or 3,4-methylenedioxy-N-ethylamphetamine and:
- 21 (a) The person knows, or reasonably should have known, that the delivery is occurring within
- 22 500 feet of the real property comprising a treatment facility;
- 23 (b) The person knows, or reasonably should have known, that the delivery is occurring within
- 24 500 feet of the real property comprising a temporary residence shelter; or
- 25 (c) The delivery occurs within 30 feet of the real property comprising a public park.
- 26 (5) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsections (1) to
- 27 (4) of this section shall be classified as crime category 4 of the sentencing guidelines grid of the
- 28 Oregon Criminal Justice Commission if the violation involves delivery or manufacture of a con-
- 29 trolled substance.
- 30 (6) In order to prove a commercial drug offense, the state shall plead in the accusatory instru-
- 31 ment sufficient factors of a commercial drug offense under subsection (1) of this section. The state
- 32 has the burden of proving each factor beyond a reasonable doubt.
- 33 (7) As used in this section:
- 34 (a) "Mixture or substance" means any mixture or substance, whether or not the mixture or
- 35 substance is in an ingestible or marketable form at the time of the offense.
- 36 (b) "Public park" means a park operated by the state, a county, a city or a park and recreation
- 37 district.
- 38 (c) "Temporary residence shelter" means a building that provides shelter on a temporary basis
- 39 for individuals and families who lack permanent housing.
- 40 (d) "Treatment facility" has the meaning given that term in ORS 430.306.
- 41 **SECTION 9.** ORS 475.907 is amended to read:
- 42 475.907. (1) When a person is convicted of the unlawful delivery of cocaine, methamphetamine,
- 43 heroin, **fentanyl** or ecstasy to a person under 18 years of age, the court shall sentence the person
- 44 to a term of incarceration ranging from 34 months to 72 months, depending on the person's criminal
- 45 history.

1 (2) The sentence described in subsection (1) of this section does not apply to a person who is less  
 2 than three years older than the person under 18 years of age to whom the controlled substance was  
 3 delivered, unless the person has a previous conviction for delivery of cocaine, methamphetamine,  
 4 heroin, **fantanyl** or ecstasy to a person under 18 years of age.

5 **SECTION 10.** ORS 475.934 is amended to read:

6 475.934. (1) When a court sentences a person convicted of a crime listed in subsection (2) of this  
 7 section, the court may not impose a sentence of optional probation or grant a downward disposi-  
 8 tional departure or a downward durational departure under the rules of the Oregon Criminal Justice  
 9 Commission if the person has a previous conviction for any of the crimes listed in subsection (2) of  
 10 this section.

11 (2) The crimes to which subsection (1) of this section applies are:

12 (a) Manufacture or delivery of a controlled substance under ORS 475.752 (1);

13 (b) Creation or delivery of a counterfeit substance under ORS 475.752 (2);

14 (c) Manufacture or delivery of heroin under ORS 475.846, 475.848, 475.850 or 475.852;

15 **(d) Manufacture or delivery of fentanyl under section 3, 4, 5 or 6 of this 2025 Act;**

16 [(d)] (e) Manufacture or delivery of 3,4-methylenedioxyamphetamine under ORS 475.866,  
 17 475.868, 475.870 or 475.872;

18 [(e)] (f) Manufacture or delivery of cocaine under ORS 475.876, 475.878, 475.880 or 475.882;

19 [(f)] (g) Manufacture or delivery of methamphetamine under ORS 475.886, 475.888, 475.890 or  
 20 475.892;

21 [(g)] (h) Manufacture or delivery of a controlled substance within 1,000 feet of a school under  
 22 ORS 475.904;

23 [(h)] (i) Delivery of a controlled substance to a person under 18 years of age under ORS 475.906;  
 24 and

25 [(i)] (j) Possession of a precursor substance with intent to manufacture a controlled substance  
 26 under ORS 475.967.

27 (3)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have  
 28 occurred upon the pronouncement in open court of sentence. However, when sentences are imposed  
 29 for two or more convictions arising out of the same conduct or criminal episode, none of the con-  
 30 victions is considered to have occurred prior to any of the other convictions arising out of the same  
 31 conduct or criminal episode.

32 (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-  
 33 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open  
 34 court of the suspended imposition of a sentence.

35 (4) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

36 (5) As used in this section, "previous conviction" includes convictions entered in any other state  
 37 or federal court for comparable offenses.

38 **SECTION 11.** ORS 475.898 is amended to read:

39 475.898. (1) A person who contacts emergency medical services or a law enforcement agency to  
 40 obtain medical assistance for another person who needs medical assistance due to a drug-related  
 41 overdose is immune from arrest, [or] prosecution **or the imposition of a civil penalty** for an offense  
 42 listed in subsection (3) of this section if the evidence of the offense was obtained because the person  
 43 contacted emergency medical services or a law enforcement agency.

44 (2) A person who is in need of medical assistance due to a drug-related overdose is immune from  
 45 arrest, [or] prosecution **or the imposition of a civil penalty** for an offense listed in subsection (3)

1 of this section if the evidence of the offense was obtained because any person contacted emergency  
 2 medical services or a law enforcement agency to obtain medical assistance for the person.

3 (3) The immunity conferred under subsections (1) and (2) of this section applies to arrest, *[and]*  
 4 prosecution **and the imposition of a civil penalty** for:

5 (a) Frequenting a place where controlled substances are used as described in ORS 167.222;

6 (b) Possession of a controlled substance as described in ORS 475.752;

7 (c) Unlawful possession of hydrocodone as described in ORS 475.814;

8 (d) Unlawful possession of methadone as described in ORS 475.824;

9 (e) Unlawful possession of oxycodone as described in ORS 475.834;

10 (f) Unlawful possession of heroin as described in ORS 475.854;

11 **(g) Unlawful possession of fentanyl as described in section 2 of this 2025 Act;**

12 *[(g)]* (h) Unlawful possession of 3,4-methylenedioxyamphetamine as described in ORS  
 13 475.874;

14 *[(h)]* (i) Unlawful possession of cocaine as described in ORS 475.884;

15 *[(i)]* (j) Unlawful possession of methamphetamine as described in ORS 475.894;

16 *[(j)]* (k) Unlawfully possessing a prescription drug as described in ORS 689.527 (6); and

17 *[(k)]* (L) Unlawful possession of drug paraphernalia with intent to sell or deliver as described  
 18 in ORS 475.525.

19 (4)(a) A person may not be arrested for violating, or found to be in violation of, the conditions  
 20 of the person's pretrial release, probation, post-prison supervision or parole if the violation involves:

21 (A) The possession or use of a controlled substance or frequenting a place where controlled  
 22 substances are used; and

23 (B) The evidence of the violation was obtained because the person contacted emergency medical  
 24 services or a law enforcement agency to obtain medical assistance for another person who needed  
 25 medical assistance due to a drug-related overdose.

26 (b) A person may not be arrested for violating, or found to be in violation of, the conditions of  
 27 the person's pretrial release, probation, post-prison supervision or parole if the violation involves:

28 (A) The possession or use of a controlled substance or frequenting a place where controlled  
 29 substances are used; and

30 (B) The evidence of the violation was obtained because the person was in need of medical as-  
 31 sistance due to a drug-related overdose and any person contacted emergency medical services or a  
 32 law enforcement agency to obtain medical assistance for the person.

33 (5)(a) A person may not be arrested on an outstanding warrant for any of the offenses listed in  
 34 subsection (3) of this section, or on an outstanding warrant for a violation, other than commission  
 35 of a new crime, of the conditions of the person's probation, post-prison supervision or parole for  
 36 conduct that would constitute an offense listed in subsection (3) of this section, if the location of the  
 37 person was obtained because the person contacted emergency medical services or a law enforcement  
 38 agency to obtain medical assistance for another person who needed medical assistance due to a  
 39 drug-related overdose.

40 (b) A person may not be arrested on an outstanding warrant for any of the offenses listed in  
 41 subsection (3) of this section, or on an outstanding warrant for a violation, other than commission  
 42 of a new crime, of the conditions of the person's probation, post-prison supervision or parole for  
 43 conduct that would constitute an offense listed in subsection (3) of this section, if the location of the  
 44 person was obtained because the person was in need of medical assistance due to a drug-related  
 45 overdose and any person contacted emergency medical services or a law enforcement agency to



1 obtain medical assistance for the person.

2 (c) This subsection does not apply to outstanding federal warrants or outstanding warrants is-  
 3 sued from other states.

4 (6) The immunity from arrest and prosecution described in this section is not grounds for the  
 5 suppression of evidence relating to a criminal offense other than the offenses listed in subsection (3)  
 6 of this section.

7 (7) As used in this section:

8 (a) “Controlled substance” has the meaning given that term in ORS 475.005.

9 (b) “Drug-related overdose” means an acute condition, including mania, hysteria, extreme phys-  
 10 ical illness, coma or death, resulting from the consumption or use of a controlled substance, or an-  
 11 other substance with which a controlled substance was combined, that a person would reasonably  
 12 believe to be a condition that requires medical attention.

13 **SECTION 12.** ORS 475.245, as amended by section 53, chapter 70, Oregon Laws 2024, is  
 14 amended to read:

15 475.245. (1)(a) Whenever a person is charged with an offense listed in subsection (5) of this sec-  
 16 tion, the court, with the consent of the district attorney and the person, may defer further pro-  
 17 ceedings and place the person on probation. The terms of the probation shall be defined by a  
 18 probation agreement.

19 (b) A probation agreement carries the understanding that if the defendant fulfills the terms of  
 20 the agreement, the criminal charges filed against the defendant will be dismissed with prejudice.

21 (c) The agreement must contain a waiver of the following rights of the defendant with respect  
 22 to each criminal charge:

23 (A) The right to a speedy trial and trial by jury;

24 (B) The right to present evidence on the defendant’s behalf;

25 (C) The right to confront and cross-examine witnesses against the defendant;

26 (D) The right to contest evidence presented against the defendant, including the right to object  
 27 to hearsay evidence; and

28 (E) The right to appeal from a judgment of conviction resulting from an adjudication of guilt  
 29 entered under subsection (2) of this section, unless the appeal is based on an allegation that the  
 30 sentence exceeds the maximum allowed by law or constitutes cruel and unusual punishment.

31 (d) The agreement must include a requirement that the defendant pay any restitution owed to  
 32 the victim as determined by the court, and any fees for court-appointed counsel ordered by the court  
 33 under ORS 135.050.

34 (e) The agreement may not contain a requirement that the defendant enter a plea of guilty or  
 35 no contest on any charge in the accusatory instrument.

36 (f) Entering into a probation agreement does not constitute an admission of guilt and is not  
 37 sufficient to warrant a finding or adjudication of guilt by a court.

38 (g) Police reports or other documents associated with the criminal charges in a court file other  
 39 than the probation agreement may not be admitted into evidence, and do not establish a factual  
 40 basis for finding the defendant guilty, unless the court resumes criminal proceedings and enters an  
 41 adjudication of guilt under subsection (2) of this section.

42 (2) Upon violation of a term or condition of the probation agreement, the court may impose  
 43 sanctions of up to a total of 30 days of imprisonment, or resume the criminal proceedings and may  
 44 find the defendant guilty of the offenses in the accusatory instrument in accordance with the waiver  
 45 of rights in the probation agreement. The defendant may not contest the sufficiency of the evidence

1 establishing the defendant's guilt of the offenses in the accusatory instrument.

2 (3) Upon fulfillment of the terms and conditions of the probation agreement, the court shall  
3 discharge the person and dismiss the proceedings against the person. Discharge and dismissal under  
4 this section shall be without adjudication of guilt and is not a conviction for purposes of this section  
5 or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There  
6 may be only one discharge and dismissal under this section with respect to any person.

7 (4) In the event that the period of probation under this section expires, but the terms and con-  
8 ditions of the probation agreement have not been fulfilled and no probation violation proceeding was  
9 initiated prior to the expiration of the period of probation, the court may not discharge the person  
10 and dismiss the proceedings against the person. The court shall instead issue an order requiring the  
11 person to appear and to show cause why the court should not enter an adjudication of guilt as de-  
12 scribed in subsection (2) of this section due to the failure of the person to fulfill the terms and  
13 conditions of the probation agreement prior to expiration of the period of probation. At the hearing  
14 on the order to show cause, after considering any evidence or argument from the district attorney  
15 and the person, the court may:

16 (a) Order a new period of probation to allow the person to fulfill the terms and conditions of the  
17 probation agreement; or

18 (b) Enter an adjudication of guilt as described in subsection (2) of this section.

19 (5) This section applies to the following offenses:

20 (a) Possession of a controlled substance under ORS 475.752 (3), 475.814, 475.824, 475.834, 475.854,  
21 475.874, 475.884 or 475.894 **or section 2 of this 2025 Act;**

22 (b) Unlawfully possessing a prescription drug under ORS 689.527 (6);

23 (c) Unlawfully possessing marijuana plants, usable marijuana, cannabinoid products, cannabinoid  
24 concentrates or cannabinoid extracts as described in ORS 475C.337 or 475C.341, if the offense is a  
25 misdemeanor or felony;

26 (d) Endangering the welfare of a minor under ORS 163.575 (1)(b);

27 (e) Frequenting a place where controlled substances are used under ORS 167.222; and

28 (f) A property offense that is motivated by a dependence on a controlled substance or a  
29 marijuana item as defined in ORS 475C.009.

30 **SECTION 13.** ORS 423.478, as amended by section 2, chapter 58, Oregon Laws 2024, and section  
31 47, chapter 70, Oregon Laws 2024, is amended to read:

32 423.478. (1) The Department of Corrections shall:

33 (a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;

34 (b) Provide central information and data services sufficient to:

35 (A) Allow tracking of offenders; and

36 (B) Permit analysis of correlations between sanctions, supervision, services and programs, and  
37 future criminal conduct; and

38 (c) Provide interstate compact administration and jail inspections.

39 (2) Subject to ORS 423.483, each county, in partnership with the department, shall assume re-  
40 sponsibility for community-based supervision, sanctions and services for offenders convicted of felo-  
41 nies, designated drug-related misdemeanors or designated person misdemeanors, or persons who have  
42 entered into a probation agreement on a drug enforcement misdemeanor pursuant to section 52,  
43 chapter 70, Oregon Laws 2024, who are:

44 (a) On parole;

45 (b) On probation;

- 1 (c) On post-prison supervision;
- 2 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;
- 3 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-  
4 Prison Supervision to 12 months or less incarceration for violation of a condition of parole, pro-  
5 bation or post-prison supervision; or
- 6 (f) On conditional release under ORS 420A.206.
- 7 (3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration,  
8 when an offender is committed to the custody of the supervisory authority of a county under ORS  
9 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other  
10 than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority  
11 releases a person from custody under this subsection and the person is required to report as a sex  
12 offender under ORS 163A.010, the supervisory authority, as a condition of release, shall order the  
13 person to report to the Department of State Police, a city police department or a county sheriff's  
14 office or to the supervising agency, if any:
- 15 (a) When the person is released;
- 16 (b) Within 10 days of a change of residence;
- 17 (c) Once each year within 10 days of the person's birth date;
- 18 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
19 institution of higher education; and
- 20 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher  
21 education.
- 22 (4) As used in this section:
- 23 (a) "Attends," "institution of higher education," "works" and "carries on a vocation" have the  
24 meanings given those terms in ORS 163A.005.
- 25 (b) "Designated drug-related misdemeanor" means:
- 26 (A) Unlawful possession of a Schedule I controlled substance under ORS 475.752 (3)(a);
- 27 (B) Unlawful possession of a Schedule II controlled substance under ORS 475.752 (3)(b);
- 28 (C) Unlawful possession of a Schedule III controlled substance under ORS 475.752 (3)(c);
- 29 (D) Unlawful possession of a Schedule IV controlled substance under ORS 475.752 (3)(d);
- 30 (E) Unlawful possession of a Schedule I controlled substance under ORS 475.752 (7)(a);
- 31 (F) Unlawful possession of fentanyl under [ORS 475.752 (8)(a)] **section 2 (2)(a) of this 2025**  
32 **Act;**
- 33 **(G) Unlawful possession of fentanyl under section 2 (2)(b) of this 2025 Act;**
- 34 [(G)] **(H)** Unlawful possession of hydrocodone under ORS 475.814 (2)(a);
- 35 [(H)] **(I)** Unlawful possession of hydrocodone under ORS 475.814 (2)(b);
- 36 [(I)] **(J)** Unlawful possession of methadone under ORS 475.824 (2)(a);
- 37 [(J)] **(K)** Unlawful possession of methadone under ORS 475.824 (2)(b);
- 38 [(K)] **(L)** Unlawful possession of oxycodone under ORS 475.834 (2)(a);
- 39 [(L)] **(M)** Unlawful possession of oxycodone under ORS 475.834 (2)(b);
- 40 [(M)] **(N)** Unlawful possession of heroin under ORS 475.854 (2)(a);
- 41 [(N)] **(O)** Unlawful possession of heroin under ORS 475.854 (2)(b);
- 42 [(O)] **(P)** Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 (2)(a);
- 43 [(P)] **(Q)** Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 (2)(b);
- 44 [(Q)] **(R)** Unlawful possession of cocaine under ORS 475.884 (2)(a);
- 45 [(R)] **(S)** Unlawful possession of cocaine under ORS 475.884 (2)(b);

1 [(S)] (T) Unlawful possession of methamphetamine under ORS 475.894 (2)(a);  
2 [(T)] (U) Unlawful possession of methamphetamine under ORS 475.894 (2)(b); or  
3 [(U)] (V) Interfering with public transportation under ORS 166.116 (1)(e).

4 (c) “Designated person misdemeanor” means:

5 (A) Assault in the fourth degree constituting domestic violence if the judgment document is as  
6 described in ORS 163.160 (4);

7 (B) Menacing constituting domestic violence if the judgment document is as described in ORS  
8 163.190 (3); or

9 (C) Sexual abuse in the third degree under ORS 163.415.

10 **SECTION 14.** Section 35, chapter 70, Oregon Laws 2024, is amended to read:

11 **Sec. 35.** (1) Unlawful possession of a controlled substance constituting a drug enforcement  
12 misdemeanor under ORS 475.752 (3)(a), (b), (c) or (d), 475.814 (2)(a), 475.824 (2)(a), 475.834 (2)(a),  
13 475.854 (2)(a), 475.874 (2)(a), 475.884 (2)(a) or 475.894 (2)(a) **or section 2 (2)(a) of this 2025 Act** is  
14 punishable as described in this section.

15 (2)(a) When imposing a sentence for the crime described in this section:

16 (A) The court may decide to not suspend the imposition or execution of any part of the sentence,  
17 and impose a term of incarceration in accordance with ORS 137.010 (7) of up to 180 days, only upon  
18 the request of the defendant.

19 (B) If the defendant has not requested to be sentenced under subparagraph (A) of this paragraph,  
20 or if the court has decided not to sentence the defendant under subparagraph (A) of this paragraph,  
21 the court shall suspend the imposition of any sentence of incarceration and, notwithstanding ORS  
22 137.010 (4), impose a sentence of supervised probation of a definite period of up to 18 months.

23 (b) When imposing a sentence of probation under this section, the court may not order as a  
24 condition of probation that the defendant serve a sentence of incarceration or confinement in the  
25 county jail.

26 (c) Notwithstanding ORS 135.050, 137.010 (7), 161.635 and 161.665, the court may not include in  
27 the judgment of conviction for the crime described in this section a requirement that the defendant  
28 pay a fine, cost, assessment or attorney fee.

29 (d) ORS 137.540 (2)(a) does not apply to sentences imposed under this section.

30 (3)(a) Structured, intermediate sanctions as described in ORS 137.593 may be imposed in ac-  
31 cordance with rules adopted under ORS 137.595 when a condition of a term of probation imposed  
32 under this section has been violated.

33 (b) Upon a finding that the person on probation has violated a condition of probation imposed  
34 under this section, the court may impose a sanction, which may include days in jail.

35 (c) The total amount of jail that a person may receive pursuant to structured, intermediate  
36 sanctions, or a court-imposed sanctions, on a probation imposed under this section is 30 days. Any  
37 term of incarceration imposed as a sanction must allow for early release to a treatment facility.

38 (d) The court may extend the length of a probation sentence imposed under this section if the  
39 person on probation consents to the extension. The total term of probation may not exceed five  
40 years.

41 (4)(a) Notwithstanding ORS 137.545 (5)(a)(B) and 137.593, upon the court’s revocation of a sen-  
42 tence of probation imposed under this section, the court may impose as a revocation sentence up to  
43 180 days’ incarceration. For any sentence of incarceration imposed under this paragraph, the court  
44 shall authorize early release to an inpatient or outpatient drug and alcohol treatment program as  
45 described in paragraph (b) of this subsection.

1 (b) Upon imposing a revocation sentence of incarceration under this subsection, the court shall  
2 commit the person to the custody of the supervisory authority under ORS 137.124. The county  
3 community corrections agency shall monitor when an inpatient or outpatient drug and alcohol  
4 treatment program becomes available for the person and shall notify the person when a program is  
5 available. In order to be released early to the program, the person must enter into a revocation  
6 release agreement subject to such conditions as determined by the county community corrections  
7 agency. If the person violates the terms of the revocation release agreement, the county community  
8 corrections agency may cause the person to return to jail to serve the remainder of the  
9 incarceration sentence originally imposed.

10 (c) When a person has been released to an inpatient or outpatient drug and alcohol treatment  
11 program under paragraph (b) of this subsection, each day that the person is in the community and  
12 subject to the revocation release agreement shall count toward the total term of incarceration im-  
13 posed as a revocation sentence.

14 (d) When imposing a revocation sentence of incarceration under this section, the court shall  
15 order, and may not deny, that the person receive credit for time served for any day that the person  
16 was previously incarcerated on the charge.

17 **SECTION 15.** Section 52, chapter 70, Oregon Laws 2024, is amended to read:

18 **Sec. 52.** (1)(a) When a person is charged with unlawful possession of a controlled substance  
19 under ORS 475.752 (3)(a), (b), (c) or (d), 475.814 (2)(a), 475.824 (2)(a), 475.834 (2)(a), 475.854 (2)(a),  
20 475.874 (2)(a), 475.884 (2)(a) or 475.894 (2)(a) **or section 2 (2)(a) of this 2025 Act** constituting a drug  
21 enforcement misdemeanor as described in section 35 [of this 2024 Act], **chapter 70, Oregon Laws**  
22 **2024**, the person is eligible to enter, and subject to paragraphs (b) and (c) of this subsection may  
23 request to enter, into a probation agreement as described in this section.

24 (b) The district attorney may object to the defendant's entry into a probation agreement under  
25 this section. After hearing the reasons for the objection, the court may deny the person's entry if  
26 the probation agreement would not serve the needs of the person or the protection and welfare of  
27 the community.

28 (c) A person may request to enter into a probation agreement under this section no later than  
29 30 days after the person's first appearance, unless the court authorizes a later date for good cause  
30 shown. For purposes of this paragraph, the filing of a demurrer, a motion to suppress or a motion  
31 for an omnibus hearing does not constitute good cause.

32 (d) When a person enters into a probation agreement under this section, the court shall defer  
33 further proceedings on the charge described in paragraph (a) of this subsection and place the person  
34 on probation. The terms of the probation shall be defined by a probation agreement.

35 (e) A person may enter into a probation agreement under this section on the charge described  
36 in paragraph (a) of this subsection regardless of whether the person is charged with other offenses  
37 within the same charging instrument or as part of a separate charging instrument, but the pro-  
38 ceedings on the other offenses continue in the normal course and are not deferred.

39 (2)(a) A probation agreement described in this section carries the understanding that if the de-  
40 fendant fulfills the terms of the agreement, the charge described in subsection (1)(a) of this section  
41 that is the subject of the agreement will be dismissed with prejudice.

42 (b) The initial term of probation shall be 12 months, subject to early termination by the court.  
43 The terms of the probation shall include the general conditions of probation described in ORS  
44 137.540 (1) and a requirement that the defendant complete a substance abuse evaluation and any  
45 treatment recommended by the evaluator. The court may impose sanctions of up to a total of 30 days

1 of imprisonment upon finding that the person has violated the conditions of probation. Structured,  
2 intermediate sanctions as described in ORS 137.593 may be imposed in accordance with rules  
3 adopted under ORS 137.595 when the conditions of a term of probation described in this section have  
4 been violated.

5 (c) The agreement must contain a waiver of the following rights of the defendant with respect  
6 to each criminal charge:

7 (A) The right to a speedy trial and trial by jury;

8 (B) The right to present evidence on the defendant's behalf;

9 (C) The right to confront and cross-examine witnesses against the defendant;

10 (D) The right to contest evidence presented against the defendant, including the right to object  
11 to hearsay evidence; and

12 (E) The right to appeal from a judgment of conviction resulting from an adjudication of guilt  
13 entered under subsection (3) of this section, unless the appeal is based on an allegation that the  
14 sentence exceeds the maximum allowed by law or constitutes cruel and unusual punishment.

15 (d) The agreement may not contain a requirement that the defendant enter a plea of guilty or  
16 no contest on any charge in the accusatory instrument.

17 (e) The fact that a person has entered into a probation agreement under this section does not  
18 constitute an admission of guilt and is not sufficient to warrant a finding or adjudication of guilt  
19 by a court.

20 (f) Police reports or other documents associated with the criminal charges in a court file other  
21 than the probation agreement may not be admitted into evidence, and do not establish a factual  
22 basis for finding the defendant guilty, unless the court resumes criminal proceedings and enters an  
23 adjudication of guilt under subsection (3) of this section.

24 (3) Upon violation of a term or condition of the probation agreement, the court may impose a  
25 sanction or may resume the criminal proceedings and may find the defendant guilty of the charge  
26 that is the subject of the agreement in accordance with the waiver of rights in the agreement. The  
27 defendant may not contest the sufficiency of the evidence establishing the defendant's guilt of the  
28 offenses in the accusatory instrument.

29 (4) Upon the conclusion or early termination of the probation period, if the court has received  
30 notice from the district attorney or a supervising officer that the person has fulfilled the terms and  
31 conditions of the probation agreement, the court shall discharge the person and dismiss the charge  
32 that is the subject of the agreement. Discharge and dismissal under this section shall be without  
33 adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqual-  
34 ifications or disabilities imposed by law upon conviction of a crime.

35 (5) In the event that the period of probation under this section expires, but the court has not  
36 received notice that the terms and conditions of the probation agreement have been fulfilled and no  
37 probation violation proceeding was initiated prior to the expiration of the period of probation, the  
38 court may not discharge the person and dismiss the proceedings against the person. The court shall  
39 instead issue an order requiring the person to appear and to show cause why the court should not  
40 enter an adjudication of guilt as described in subsection (3) of this section due to the failure of the  
41 person to fulfill the terms and conditions of the probation agreement prior to expiration of the pe-  
42 riod of probation. At the hearing on the order to show cause, after considering any evidence or ar-  
43 gument from the district attorney and the person, the court may:

44 (a) Order a new period of probation to allow the person to fulfill the terms and conditions of the  
45 probation agreement; or

1 (b) Enter an adjudication of guilt as described in subsection (3) of this section.

2 **SECTION 16. This 2025 Act being necessary for the immediate preservation of the public**  
3 **peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect**  
4 **on its passage.**

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