

Senate Bill 670

Sponsored by Senator BONHAM (at the request of Senator Noah Robinson) (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 restores the offense level of the crime of drug possession to what it was before Ballot Measure 110. The Act takes effect on the 91st day after sine die. (Flesch Readability Score: 68.2).

Restores, for possession of a controlled substance crimes, the offense level each crime had prior to the enactment of the Drug Addiction Treatment and Recovery Act of 2020 (Ballot Measure 110 (2020)). Punishes by a maximum of 364 days' imprisonment, \$6,250 fine, or both, or 30 days' imprisonment, \$1,250 fine, or both, depending upon the scheduling of the controlled substance. Punishes by five years' imprisonment, \$125,000 fine, or both, or ten years' imprisonment, \$250,000 fine, or both, in specified circumstances.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to possession of controlled substances; creating new provisions; amending ORS 133.060,
3 135.050, 135.753, 137.225, 161.570, 423.478, 423.483, 423.525, 475.752, 475.814, 475.824, 475.834,
4 475.854, 475.874, 475.884, 475.894 and 475.900; repealing sections 34, 35, 36, 37, 51, 52, 54, 75, 76,
5 77 and 78, chapter 70, Oregon Laws 2024; and prescribing an effective date.

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

CONTROLLED SUBSTANCE POSSESSION

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10 **SECTION 1.** ORS 475.752, as amended by sections 28 and 39, chapter 70, Oregon Laws 2024, is
11 amended to read:

12 475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
13 for any person to manufacture or deliver a controlled substance. Any person who violates this sub-
14 section with respect to:

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

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

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

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

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

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

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

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

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

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

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

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

10 (a) A controlled substance in Schedule I, is guilty of a [*drug enforcement misdemeanor punishable*
11 *as described in section 35, chapter 70, Oregon Laws 2024*] **Class A misdemeanor**, except as otherwise
12 provided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

13 (b) A controlled substance in Schedule II, is guilty of a [*drug enforcement misdemeanor*
14 *punishable as described in section 35, chapter 70, Oregon Laws 2024*] **Class A misdemeanor**, except
15 as otherwise provided in ORS [*475.814,*] 475.824, 475.834 or 475.884 or subsection (8) of this section.

16 (c) A controlled substance in Schedule III, is guilty of a [*drug enforcement misdemeanor*
17 *punishable as described in section 35, chapter 70, Oregon Laws 2024*] **Class A misdemeanor**.

18 (d) A controlled substance in Schedule IV, is guilty of a [*drug enforcement misdemeanor*
19 *punishable as described in section 35, chapter 70, Oregon Laws 2024*] **Class C misdemeanor**.

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

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

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

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

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

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

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

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

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

36 [(a)] unlawful possession of a controlled substance in Schedule I is a [*Class A misdemeanor*]
37 **Class B felony** if:

38 (a) The person possesses a **usable quantity of the controlled substance and:**

39 (A) **At the time of the possession, the person has a prior felony conviction;**

40 (B) **At the time of the possession, the person has two or more prior convictions for un-**
41 **lawful possession of a usable quantity of a controlled substance; or**

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

43 (b) **The person possesses:**

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

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

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

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

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

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

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

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

(a) The person possesses a usable quantity of the controlled substance and:

(A) At the time of the possession, the person has a prior felony conviction;

(B) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or

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

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

(b) The person possesses one gram or more or five or more user units of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the State Board of Pharmacy.

SECTION 2. ORS 475.814, as amended by section 40, chapter 70, Oregon Laws 2024, is amended to read:

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

*[(2)(a)] (2) Unlawful possession of hydrocodone is a [drug enforcement misdemeanor punishable as described in section 35, chapter 70, Oregon Laws 2024] **Class A misdemeanor.***

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

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

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

SECTION 3. ORS 475.824, as amended by section 41, chapter 70, Oregon Laws 2024, is amended to read:

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

*(2)(a) Unlawful possession of methadone is a [drug enforcement misdemeanor punishable as described in section 35, chapter 70, Oregon Laws 2024] **Class A misdemeanor.***

[(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a Class A misdemeanor if the person possesses 40 or more user units of a mixture or substance containing a detectable amount of methadone.]

[(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of methadone

1 *is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).]*

2 **(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone**
 3 **is a Class C felony if:**

4 **(A) The person possesses a usable quantity of methadone and:**

5 **(i) At the time of the possession, the person has a prior felony conviction;**

6 **(ii) At the time of the possession, the person has two or more prior convictions for un-**
 7 **lawful possession of a usable quantity of a controlled substance; or**

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

9 **(B) The person possesses 40 or more user units of a mixture or substance containing a**
 10 **detectable amount of methadone.**

11 **SECTION 4.** ORS 475.834, as amended by section 42, chapter 70, Oregon Laws 2024, is amended
 12 to read:

13 475.834. (1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless
 14 the oxycodone was obtained directly from, or pursuant to a valid prescription or order of, a practi-
 15 tioner while acting in 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 oxycodone is a [*drug enforcement misdemeanor punishable as de-*
 18 *scribed in section 35, chapter 70, Oregon Laws 2024*] **Class A misdemeanor.**

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

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

24 **(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of oxycodone**
 25 **is a Class C felony if:**

26 **(A) The person possesses a usable quantity of oxycodone and:**

27 **(i) At the time of the possession, the person has a prior felony conviction;**

28 **(ii) At the time of the possession, the person has two or more prior convictions for un-**
 29 **lawful possession of a usable quantity of a controlled substance; or**

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

31 **(B) The person possesses 40 or more pills, tablets or capsules of a mixture or substance**
 32 **containing a detectable amount of oxycodone.**

33 **SECTION 5.** ORS 475.854, as amended by sections 29 and 43, chapter 70, Oregon Laws 2024, is
 34 amended to read:

35 475.854. (1) It is unlawful for any person knowingly or intentionally to possess heroin.

36 (2)(a) Unlawful possession of heroin is a [*drug enforcement misdemeanor punishable as described*
 37 *in section 35, chapter 70, Oregon Laws 2024*] **Class A misdemeanor.**

38 [*(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class A*
 39 *misdemeanor if the person possesses one gram or more of a mixture or substance containing a detect-*
 40 *able amount of heroin.]*

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

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

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

45 **(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a**

1 **Class B felony if:**

2 (A) **The person possesses a usable quantity of heroin and:**

3 (i) **At the time of the possession, the person has a prior felony conviction;**

4 (ii) **At the time of the possession, the person has two or more prior convictions for un-**
 5 **lawful possession of a usable quantity of a controlled substance; or**

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

7 (B) **The person possesses one gram or more of a mixture or substance containing a de-**
 8 **tectable amount of heroin.**

9 **SECTION 6.** ORS 475.874, as amended by sections 30 and 44, chapter 70, Oregon Laws 2024, is
 10 amended to read:

11 475.874. (1) It is unlawful for any person knowingly or intentionally to possess
 12 3,4-methylenedioxyamphetamine.

13 (2)(a) Unlawful possession of 3,4-methylenedioxyamphetamine is a [*drug enforcement*
 14 *misdemeanor punishable as described in section 35, chapter 70, Oregon Laws 2024*] **Class A**
 15 **misdemeanor.**

16 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of
 17 3,4-methylenedioxyamphetamine is a [*Class A misdemeanor*] **Class B felony if:**

18 (A) **The person possesses a usable quantity of 3,4-methylenedioxyamphetamine and:**

19 (i) **At the time of the possession, the person has a prior felony conviction;**

20 (ii) **At the time of the possession, the person has two or more prior convictions for un-**
 21 **lawful possession of a usable quantity of a controlled substance; or**

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

23 (B) **The person possesses one gram or more or five or more pills, tablets or capsules of a mix-**
 24 **ture or substance containing a detectable amount of:**

25 [(A)] (i) 3,4-methylenedioxyamphetamine;

26 [(B)] (ii) 3,4-methylenedioxyamphetamine; or

27 [(C)] (iii) 3,4-methylenedioxy-N-ethylamphetamine.

28 [(c) *Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of*
 29 *3,4-methylenedioxyamphetamine is a Class B felony if:*]

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

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

32 **SECTION 7.** ORS 475.884, as amended by sections 31 and 45, chapter 70, Oregon Laws 2024, is
 33 amended to read:

34 475.884. (1) It is unlawful for any person knowingly or intentionally to possess cocaine unless
 35 the substance was obtained directly from, or pursuant to a valid prescription or order of, a practi-
 36 tioner while acting in the course of professional practice, or except as otherwise authorized by ORS
 37 475.005 to 475.285 and 475.752 to 475.980.

38 (2)(a) Unlawful possession of cocaine is a [*drug enforcement misdemeanor punishable as described*
 39 *in section 35, chapter 70, Oregon Laws 2024*] **Class A misdemeanor.**

40 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a [*Class*
 41 *A misdemeanor*] **Class C felony if:**

42 (A) **The person possesses a usable quantity of cocaine and:**

43 (i) **At the time of the possession, the person has a prior felony conviction;**

44 (ii) **At the time of the possession, the person has two or more prior convictions for un-**
 45 **lawful possession of a usable quantity of a controlled substance; or**

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

2 **(B) The person possesses two grams or more of a mixture or substance containing a detectable**
 3 amount of cocaine.

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

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

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

8 **SECTION 8.** ORS 475.894, as amended by sections 32 and 46, chapter 70, Oregon Laws 2024, is
 9 amended to read:

10 475.894. (1) It is unlawful for any person knowingly or intentionally to possess methamphetamine
 11 unless the substance was obtained directly from, or pursuant to[,] a valid prescription or order of,
 12 a practitioner while acting in the course of professional practice, or except as otherwise authorized
 13 by ORS 475.005 to 475.285 and 475.752 to 475.980.

14 (2)(a) Unlawful possession of methamphetamine is a *[drug enforcement misdemeanor punishable*
 15 *as described in section 35, chapter 70, Oregon Laws 2024]* **Class A misdemeanor.**

16 (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine
 17 is a *[Class A misdemeanor]* **Class C felony** if:

18 **(A) The person possesses a usable quantity of methamphetamine and:**

19 **(i) At the time of the possession, the person has a prior felony conviction;**

20 **(ii) At the time of the possession, the person has two or more prior convictions for un-**
 21 **lawful possession of a usable quantity of a controlled substance; or**

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

23 **(B) The person possesses two grams or more of a mixture or substance containing a detectable**
 24 amount of methamphetamine.

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

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

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

29 **SECTION 9.** ORS 475.900, as amended by section 25, chapter 70, Oregon Laws 2024, is amended
 30 to read:

31 475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified
 32 as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

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

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

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

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

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

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

45 (F) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin

- 1 or psilocin; or
- 2 (G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance con-
3 taining a detectable amount of:
- 4 (i) 3,4-methylenedioxyamphetamine;
- 5 (ii) 3,4-methylenedioxymethamphetamine; or
- 6 (iii) 3,4-methylenedioxy-N-ethylamphetamine.
- 7 (b) The violation constitutes possession, delivery or manufacture of a controlled substance and
8 the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or
9 manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at
10 least three of the following factors:
- 11 (A) The delivery was of heroin, fentanyl, cocaine, methamphetamine, lysergic acid diethylamide,
12 psilocybin or psilocin and was for consideration;
- 13 (B) The offender was in possession of \$300 or more in cash;
- 14 (C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS
15 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous
16 weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly
17 or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a
18 controlled substance offense;
- 19 (D) The offender was in possession of materials being used for the packaging of controlled sub-
20 stances such as scales, wrapping or foil, other than the material being used to contain the substance
21 that is the subject of the offense;
- 22 (E) The offender was in possession of drug transaction records or customer lists;
- 23 (F) The offender was in possession of stolen property;
- 24 (G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled
25 substance offense;
- 26 (H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor
27 chemicals, laboratory equipment, lighting, ventilating or power generating equipment;
- 28 (I) The offender was using public lands for the manufacture of controlled substances;
- 29 (J) The offender had constructed fortifications or had taken security measures with the potential
30 of injuring persons; or
- 31 (K) The offender was in possession of controlled substances in an amount greater than:
- 32 (i) Three grams or more of a mixture or substance containing a detectable amount of heroin;
- 33 (ii) Three grams or more or 15 or more user units of a mixture or substance containing a de-
34 tectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the
35 State Board of Pharmacy;
- 36 (iii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;
- 37 (iv) Eight grams or more of a mixture or substance containing a detectable amount of metham-
38 phetamine;
- 39 (v) Twenty or more user units of a mixture or substance containing a detectable amount of
40 lysergic acid diethylamide;
- 41 (vi) Ten grams or more of a mixture or substance containing a detectable amount of psilocybin
42 or psilocin; or
- 43 (vii) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance
44 containing a detectable amount of:
- 45 (I) 3,4-methylenedioxyamphetamine;

1 (II) 3,4-methylenedioxyamphetamine; or

2 (III) 3,4-methylenedioxy-N-ethylamphetamine.

3 (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.868, 475.872, 475.878,
4 475.882, 475.888, 475.892 or 475.904.

5 (d) The violation constitutes manufacturing methamphetamine and the manufacturing consists
6 of:

7 (A) A chemical reaction involving one or more precursor substances for the purpose of manu-
8 facturing methamphetamine; or

9 (B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of
10 manufacturing methamphetamine.

11 (e) The violation constitutes a violation of ORS 475.906 (1) or (2) that is not described in ORS
12 475.907.

13 (2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 7 of
14 the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation consti-
15 tutes delivery for consideration of heroin, cocaine, fentanyl, methamphetamine or
16 3,4-methylenedioxyamphetamine, 3,4-methylenedioxyamphetamine or
17 3,4-methylenedioxy-N-ethylamphetamine and:

18 (a) The person knows, or reasonably should have known, that the delivery is occurring within
19 500 feet of the real property comprising a treatment facility;

20 (b) The person knows, or reasonably should have known, that the delivery is occurring within
21 500 feet of the real property comprising a temporary residence shelter; or

22 (c) The delivery occurs within 30 feet of the real property comprising a public park.

23 (3) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of
24 the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

25 (a) The violation constitutes delivery of heroin, cocaine, fentanyl, methamphetamine or
26 3,4-methylenedioxyamphetamine, 3,4-methylenedioxyamphetamine or
27 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

28 (b) The violation constitutes possession of substantial quantities of a controlled substance. For
29 purposes of this paragraph, the following amounts constitute substantial quantities of the following
30 controlled substances:

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

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

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

36 (D) Ten grams or more of a mixture or substance containing a detectable amount of metham-
37 phetamine;

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

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

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

44 (i) 3,4-methylenedioxyamphetamine;

45 (ii) 3,4-methylenedioxyamphetamine; or

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

(4) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 5 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation constitutes delivery of heroin, cocaine, fentanyl, methamphetamine or 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or 3,4-methylenedioxy-N-ethylamphetamine and:

(a) The person knows, or reasonably should have known, that the delivery is occurring within 500 feet of the real property comprising a treatment facility;

(b) The person knows, or reasonably should have known, that the delivery is occurring within 500 feet of the real property comprising a temporary residence shelter; or

(c) The delivery occurs within 30 feet of the real property comprising a public park.

(5) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsections (1) to (4) of this section shall be classified as:

(a) Crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves delivery or manufacture of a controlled substance; or

(b) Crime category 1 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves possession of a controlled substance.

(6) In order to prove a commercial drug offense, the state shall plead in the accusatory instrument sufficient factors of a commercial drug offense under subsection (1) of this section. The state has the burden of proving each factor beyond a reasonable doubt.

(7) As used in this section:

(a) "Mixture or substance" means any mixture or substance, whether or not the mixture or substance is in an ingestible or marketable form at the time of the offense.

(b) "Public park" means a park operated by the state, a county, a city or a park and recreation district.

(c) "Temporary residence shelter" means a building that provides shelter on a temporary basis for individuals and families who lack permanent housing.

(d) "Treatment facility" has the meaning given that term in ORS 430.306.

REPEAL OF HOUSE BILL 4002 (2024) PROVISIONS

SECTION 10. Sections 34, 35, 36, 37, 51, 52, 54, 75, 76, 77 and 78, chapter 70, Oregon Laws 2024, are repealed.

SECTION 11. ORS 133.060, as amended by section 38, chapter 70, Oregon Laws 2024, is amended to read:

133.060. (1) Except as provided in [*subsections (3) and (4)*] **subsection (3)** of this section, a person who has been served with a criminal citation shall appear before a magistrate of the county in which the person was cited at the time, date and court specified in the citation, which shall not be later than 30 days after the date the citation was issued.

(2) If the cited person fails to appear at the time, date and court specified in the criminal citation, and a complaint or information is filed, the magistrate shall issue a warrant of arrest, upon application for its issuance, upon the person's failure to appear.

(3)(a) Notwithstanding subsection (1) of this section, during a period of statewide emergency, the date specified in a criminal citation on which a person served with the citation shall appear may be more than 30 days after the date the citation was issued.

(b) During a period of statewide emergency, the presiding judge of a circuit court may, upon the

1 motion of a party or the court’s own motion, and upon a finding of good cause, postpone the date
 2 of appearance described in paragraph (a) of this subsection for all proceedings within the jurisdic-
 3 tion of the court.

4 (c) The presiding judge may delegate the authority described in paragraph (b) of this subsection
 5 to another judge of the court.

6 (d) Nothing in this subsection affects the rights of a defendant under the Oregon and United
 7 States Constitutions.

8 (e) As used in this subsection, “period of statewide emergency” means the period of time during
 9 which any declaration of a state of emergency under ORS 401.165, public health emergency under
 10 ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the Oregon Constitution, issued
 11 by the Governor, and any extension of the declaration, is in effect, and continuing for 60 days after
 12 the declaration and any extension is no longer in effect.

13 *[(4) Notwithstanding subsection (1) of this section, the date specified in a criminal citation on which*
 14 *a person served with the citation shall appear may be more than 30 days after the date the citation*
 15 *was issued for purposes of allowing the person to participate in a deflection program as defined in*
 16 *section 37, chapter 70, Oregon Laws 2024.]*

17 **SECTION 12.** ORS 135.050, as amended by section 56, chapter 70, Oregon Laws 2024, is
 18 amended to read:

19 135.050. (1) Suitable counsel for a defendant shall be appointed by a municipal, county or justice
 20 court if:

21 (a) The defendant is before a court on a matter described in subsection (5) of this section;

22 (b) The defendant requests aid of counsel;

23 (c) The defendant provides to the court a written and verified financial statement; and

24 (d) It appears to the court that the defendant is financially unable to retain adequate represen-
 25 tation without substantial hardship in providing basic economic necessities to the defendant or the
 26 defendant’s dependent family.

27 (2) Suitable counsel for a defendant shall be appointed by a circuit court if:

28 (a) The defendant is before the court on a matter described in subsection (5) of this section;

29 (b) The defendant requests aid of counsel;

30 (c) The defendant provides to the court a written and verified financial statement; and

31 (d)(A) The defendant is determined to be financially eligible under ORS 151.485 and the stan-
 32 dards established by the Oregon Public Defense Commission under ORS 151.216; or

33 (B) The court finds, on the record, substantial and compelling reasons why the defendant is fi-
 34 nancially unable to retain adequate representation without substantial hardship in providing basic
 35 economic necessities to the defendant or the defendant’s dependent family despite the fact that the
 36 defendant does not meet the financial eligibility standards established by the commission.

37 (3) Appointed counsel may not be denied to any defendant merely because the defendant’s
 38 friends or relatives have resources adequate to retain counsel or because the defendant has depos-
 39 ited or is capable of depositing security for release. However, appointed counsel may be denied to
 40 a defendant if the defendant’s spouse has adequate resources which the court determines should be
 41 made available to retain counsel.

42 (4) The defendant’s financial statement under subsection (1) or (2) of this section shall include,
 43 but not be limited to:

44 (a) A list of bank accounts in the name of defendant or defendant’s spouse, and the balance in
 45 each;

1 (b) A list of defendant’s interests in real property and those of defendant’s spouse;

2 (c) A list of automobiles and other personal property of significant value belonging to defendant
3 or defendant’s spouse;

4 (d) A list of debts in the name of defendant or defendant’s spouse, and the total of each; and

5 (e) A record of earnings and other sources of income in the name of defendant or defendant’s
6 spouse, and the total of each.

7 (5) Counsel must be appointed for a defendant who meets the requirements of subsection (1) or
8 (2) of this section and who is before a court on any of the following matters:

9 (a) Charged with a crime.

10 (b) For a hearing to determine whether an enhanced sentence should be imposed when such
11 proceedings may result in the imposition of a felony sentence.

12 (c) For extradition proceedings under the provisions of the Uniform Criminal Extradition Act.

13 (d) For any proceeding concerning an order of probation, including but not limited to the re-
14 voking or amending thereof.

15 (6) Unless otherwise ordered by the court, the appointment of counsel under this section shall
16 continue during all criminal proceedings resulting from the defendant’s arrest through acquittal or
17 the imposition of punishment. The court having jurisdiction of the case may not substitute one ap-
18 pointed counsel for another except pursuant to the policies, procedures, standards and guidelines
19 of the Oregon Public Defense Commission under ORS 151.216.

20 (7) If, at any time after the appointment of counsel, the court having jurisdiction of the case
21 finds that the defendant is financially able to obtain counsel, the court may terminate the appoint-
22 ment of counsel. If, at any time during criminal proceedings, the court having jurisdiction of the
23 case finds that the defendant is financially unable to pay counsel whom the defendant has retained,
24 the court may appoint counsel as provided in this section.

25 [(8)(a)] (8) [*Except as provided in paragraph (b) of this subsection,*] The court may order the de-
26 fendant in a circuit court to pay to the Public Defense Services Account established by ORS 151.225,
27 through the clerk of the court, in full or in part the administrative costs of determining the eligi-
28 bility of the defendant for appointed counsel and the costs of the legal and other services that are
29 related to the provision of appointed counsel under ORS 151.487.

30 [(b) A court may not enter an order described in paragraph (a) of this subsection when the de-
31 fendant is charged only with unlawful possession of a controlled substance constituting a drug
32 enforcement misdemeanor as described in section 35, chapter 70, Oregon Laws 2024.]

33 (9) In addition to any criminal prosecution, a civil proceeding may be initiated by any public
34 body which has expended moneys for the defendant’s legal assistance within two years of judgment
35 if the defendant was not qualified in accordance with subsection (1) or (2) of this section for legal
36 assistance.

37 (10) The civil proceeding shall be subject to the exemptions from execution as provided for by
38 law.

39 (11) As used in this section unless the context requires otherwise, “counsel” includes a legal
40 advisor appointed under ORS 135.045.

41 **SECTION 13.** ORS 137.225, as amended by section 55, chapter 70, Oregon Laws 2024, is
42 amended to read:

43 137.225. (1)(a) At any time after the person becomes eligible as described in paragraph (b) of this
44 subsection, any person convicted of an offense who has fully complied with and performed the sen-
45 tence of the court for the offense, and whose conviction is described in subsection (5) of this section,

1 by motion may apply to the court where the conviction was entered for entry of an order setting
2 aside the conviction. A person who is still under supervision as part of the sentence for the offense
3 that is the subject of the motion has not fully complied with or performed the sentence of the court.

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

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

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

9 (C) For a Class A misdemeanor, three years from the date of conviction or the release of the
10 person from imprisonment for the conviction sought to be set aside, whichever is later.

11 (D) For a Class B or Class C misdemeanor, a violation or the finding of a person in contempt
12 of court, one year from the date of conviction or finding or the release of the person from
13 imprisonment for the conviction or finding sought to be set aside, whichever is later.

14 (c) If no accusatory instrument is filed, at any time after 60 days from the date the prosecuting
15 attorney indicates that the state has elected not to proceed with a prosecution or contempt pro-
16 ceeding, an arrested, cited or charged person may apply to the court in the county in which the
17 person was arrested, cited or charged, for entry of an order setting aside the record of the arrest,
18 citation or charge.

19 (d) At any time after an acquittal or a dismissal other than a dismissal described in paragraph
20 (c) of this subsection, an arrested, cited or charged person may apply to the court in the county in
21 which the person was arrested, cited or charged, for entry of an order setting aside the record of
22 the arrest, citation or charge.

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

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

29 (2)(a) A copy of the motion shall be served upon the office of the prosecuting attorney who
30 prosecuted the offense, or who had authority to prosecute the charge if there was no accusatory
31 instrument filed. The prosecuting attorney may object to a motion filed under subsection (1)(a) of
32 this section and shall notify the court and the person of the objection within 120 days of the date
33 the motion was filed with the court.

34 (b) When a prosecuting attorney is served with a copy of a motion to set aside a conviction
35 under subsection (1)(a) of this section, the prosecuting attorney shall provide a copy of the motion
36 and notice of the hearing date to the victim, if any, of the offense by mailing a copy of the motion
37 and notice to the victim's last-known address.

38 (c) When a person makes a motion under this section, the person shall forward to the Depart-
39 ment of State Police a full set of the person's fingerprints on a fingerprint card or in any other
40 manner specified by the department.

41 (d) When a person makes a motion under subsection (1)(a) of this section, the person must pay
42 a fee to the Department of State Police for the purpose of the department performing a criminal
43 record check. The department shall establish a fee in an amount not to exceed the actual cost of
44 performing the criminal record check. If the department is required to perform only one criminal
45 record check for the person, the department may only charge one fee, regardless of the number of

1 counties in which the person is filing a motion to set aside a conviction, arrest, charge or citation
2 under this section. The department shall provide a copy of the results of the criminal record check
3 to the prosecuting attorney.

4 (e) The prosecuting attorney may not charge the person a fee for performing the requirements
5 described in this section.

6 (3)(a) If an objection is received to a motion filed under subsection (1)(a) of this section, the
7 court shall hold a hearing, and may require the filing of such affidavits and may require the taking
8 of such proofs as the court deems proper. The court shall allow the victim to make a statement at
9 the hearing. If the person is otherwise eligible for relief under this section, the court shall grant the
10 motion and enter an order as described in paragraph (b) of this subsection unless the court makes
11 written findings, by clear and convincing evidence, that the circumstances and behavior of the per-
12 son, from the date of the conviction the person is seeking to set aside to the date of the hearing on
13 the motion, do not warrant granting the motion due to the circumstances and behavior creating a
14 risk to public safety. When determining whether the person's circumstances and behavior create a
15 risk to public safety, the court may only consider criminal behavior, or violations of regulatory law
16 or administrative rule enforced by civil penalty or other administrative sanction that relate to the
17 character of the conviction sought to be set aside. The court may not consider nonpunitive civil
18 liability, monetary obligations and motor vehicle violations. Upon granting the motion, the court
19 shall enter an appropriate order containing the original arrest or citation charge, the conviction
20 charge, if different from the original, the date of charge, the submitting agency and the disposition
21 of the charge. Upon the entry of the order, the person for purposes of the law shall be deemed not
22 to have been previously convicted, and the court shall issue an order sealing the record of con-
23 viction and other official records in the case, including the records of arrest, citation or charge.

24 (b) The court shall grant a motion filed under subsection (1)(c) or (d) of this section, or under
25 subsection (1)(a) of this section if no objection to the motion is received, and shall enter an appro-
26 priate order containing the original arrest or citation charge, the conviction charge, if applicable
27 and different from the original, the date of charge, the submitting agency and the disposition of the
28 charge. Upon the entry of the order, the person for purposes of the law shall be deemed not to have
29 been previously convicted, arrested, cited or charged, and the court shall issue an order sealing all
30 official records in the case, including the records of arrest, citation or charge, whether or not the
31 arrest, citation or charge resulted in a further criminal proceeding.

32 (4) The clerk of the court shall forward a certified copy of the order to such agencies as directed
33 by the court. A certified copy must be sent to the Department of Corrections when the order con-
34 cerns a conviction. Upon entry of the order, the conviction, arrest, citation, charge or other pro-
35 ceeding shall be deemed not to have occurred, and the person may answer accordingly any questions
36 relating to its occurrence.

37 (5) The provisions of subsection (1)(a) of this section apply to a conviction for:

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

40 (b) Any misdemeanor, Class C felony or felony punishable as a misdemeanor pursuant to ORS
41 161.705.

42 (c) An offense constituting a violation under state law or local ordinance.

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

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

1 (6) Notwithstanding subsection (5) of this section, the provisions of subsection (1)(a) of this sec-
 2 tion do not apply to a conviction for:

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

5 (b) Criminal mistreatment in the first degree under ORS 163.205 if the victim at the time of the
 6 crime was 65 years of age or older, or when the offense constitutes child abuse as defined in ORS
 7 419B.005.

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

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

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

13 (f) Any sex crime, unless:

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

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

17 (ii) The person has not been convicted of, found guilty except for insanity of or found to be
 18 within the jurisdiction of the juvenile court based on a crime for which the court is prohibited from
 19 setting aside the conviction under this section; or

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

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

22 (ii) The person is:

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

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

27 (iii) The victim's lack of consent was due solely to incapacity to consent by reason of being less
 28 than a specified age;

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

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

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

34 (7) Notwithstanding subsection (5) of this section, the provisions of subsection (1) of this section
 35 do not apply to:

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

37 (b) A person convicted, within the following applicable time period immediately preceding the
 38 filing of the motion pursuant to subsection (1) of this section, of any other offense, excluding motor
 39 vehicle violations [*and unlawful possession of a controlled substance constituting a drug enforcement*
 40 *misdemeanor as described in section 35, chapter 70, Oregon Laws 2024*], whether or not the other
 41 conviction is for conduct associated with the same criminal episode that caused the arrest, citation,
 42 charge or conviction that is sought to be set aside:

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

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

45 (C) For a motion concerning a Class A misdemeanor, three years.

1 (D) For a motion concerning a Class B or Class C misdemeanor a violation or a finding of con-
2 tempt of court, one year.

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

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

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

12 (9) The provisions of subsection (1) of this section apply to convictions, arrests, citations and
13 charges that occurred before, as well as those that occurred after, September 9, 1971. There is no
14 time limit for making an application.

15 (10) For purposes of any civil action in which truth is an element of a claim for relief or affir-
16 mative defense, the provisions of subsection (3) of this section providing that the conviction, arrest,
17 citation, charge or other proceeding be deemed not to have occurred do not apply and a party may
18 apply to the court for an order requiring disclosure of the official records in the case as may be
19 necessary in the interest of justice.

20 (11)(a) Upon motion of any prosecutor or defendant in a case involving records sealed under this
21 section, supported by affidavit showing good cause, the court with jurisdiction may order the reo-
22 pening and disclosure of any records sealed under this section for the limited purpose of assisting
23 the investigation of the movant. However, such an order has no other effect on the orders setting
24 aside the conviction or the arrest, citation or charge record.

25 (b) Notwithstanding paragraph (a) of this subsection, when an arrest, citation or charge de-
26 scribed in subsection (1)(c) of this section is set aside, a prosecuting attorney may, for the purpose
27 of initiating a criminal proceeding within the statute of limitations, unseal the records sealed under
28 this section by notifying the court with jurisdiction over the charge, record of arrest or citation.
29 The prosecuting attorney shall notify the person who is the subject of the records of the unsealing
30 under this paragraph by sending written notification to the person's last known address.

31 (12) The State Court Administrator shall create forms to be used throughout the state for
32 motions and proposed orders described in this section.

33 (13) As used in this section:

34 (a) "Affidavit" includes a declaration under penalty of perjury.

35 (b) "Sex crime" has the meaning given that term in ORS 163A.005.

36 **SECTION 14.** ORS 423.483, as amended by section 48, chapter 70, Oregon Laws 2024, is
37 amended to read:

38 423.483. (1)(a) The baseline funding for biennia beginning after June 30, 1999, is the current
39 service level for the expenses of providing management, support services, supervision and sanctions
40 for offenders described in ORS 423.478 (2). At a minimum, each biennium's appropriation must be
41 established at this baseline.

42 (b) The baseline funding described in paragraph (a) of this subsection:

43 (A) May not be decreased as a result of a reduction under ORS 137.633.

44 (B) May not be increased as a result of community-based sanctions, services and programs that
45 are funded under section 53, chapter 649, Oregon Laws 2013.

1 (2) If the total state community corrections appropriation is less than the baseline calculated
2 under subsection (1) of this section, a county may discontinue participation by written notification
3 to the director 180 days prior to implementation of the change. If a county discontinues partic-
4 ipation, the responsibility for correctional services transferred to the county and the portion of
5 funding made available to the county under ORS 423.530 revert to the Department of Corrections.
6 Responsibility for supervision of and provision of correctional services to misdemeanor offenders
7 does not revert to the department under any circumstances except those of offenders convicted of
8 designated drug-related misdemeanors or designated person misdemeanors[, *or of persons who have*
9 *entered into a probation agreement on a drug enforcement misdemeanor pursuant to section 52, chapter*
10 *70, Oregon Laws 2024*].

11 (3) As used in this section:

12 (a) “Current service level” means the calculated cost of continuing current legislatively funded
13 programs, phased in programs and increased caseloads minus one-time costs, decreased caseloads,
14 phased out programs and pilot programs with the remainder adjusted for inflation as determined by
15 the Legislative Assembly in its biennial appropriation to the Department of Corrections.

16 (b) “Designated drug-related misdemeanor” has the meaning given that term in ORS 423.478.

17 (c) “Designated person misdemeanor” has the meaning given that term in ORS 423.478.

18 **SECTION 15.** ORS 423.483, as amended by section 22, chapter 649, Oregon Laws 2013, section
19 3, chapter 140, Oregon Laws 2015, section 2, chapter 341, Oregon Laws 2023, and section 49, chapter
20 70, Oregon Laws 2024, is amended to read:

21 423.483. (1)(a) The baseline funding for biennia beginning after June 30, 1999, is the current
22 service level for the expenses of providing management, support services, supervision and sanctions
23 for offenders described in ORS 423.478 (2). At a minimum, each biennium’s appropriation must be
24 established at this baseline.

25 (b) The baseline funding described in paragraph (a) of this subsection may not be decreased as
26 a result of a reduction under ORS 137.633.

27 (2) If the total state community corrections appropriation is less than the baseline calculated
28 under subsection (1) of this section, a county may discontinue participation by written notification
29 to the director 180 days prior to implementation of the change. If a county discontinues partic-
30 ipation, the responsibility for correctional services transferred to the county and the portion of
31 funding made available to the county under ORS 423.530 revert to the Department of Corrections.
32 Responsibility for supervision of and provision of correctional services to misdemeanor offenders
33 does not revert to the department under any circumstances except those of offenders convicted of
34 designated drug-related misdemeanors or designated person misdemeanors[, *or of persons who have*
35 *entered into a probation agreement on a drug enforcement misdemeanor pursuant to section 52, chapter*
36 *70, Oregon Laws 2024*].

37 (3) As used in this section:

38 (a) “Current service level” means the calculated cost of continuing current legislatively funded
39 programs, phased in programs and increased caseloads minus one-time costs, decreased caseloads,
40 phased out programs and pilot programs with the remainder adjusted for inflation as determined by
41 the Legislative Assembly in its biennial appropriation to the Department of Corrections.

42 (b) “Designated drug-related misdemeanor” has the meaning given that term in ORS 423.478.

43 (c) “Designated person misdemeanor” has the meaning given that term in ORS 423.478.

44 **SECTION 16.** ORS 423.525, as amended by section 50, chapter 70, Oregon Laws 2024, is
45 amended to read:

1 423.525. (1) A county, group of counties or intergovernmental corrections entity shall apply to
2 the Director of the Department of Corrections in a manner and form prescribed by the director for
3 funding made available under ORS 423.500 to 423.560. The application shall include a community
4 corrections plan. The Department of Corrections shall provide consultation and technical assistance
5 to counties to aid in the development and implementation of community corrections plans.

6 (2)(a) From July 1, 1995, until June 30, 1999, a county, group of counties or intergovernmental
7 corrections entity may make application requesting funding for the construction, acquisition, ex-
8 pansion or remodeling of correctional facilities to serve the county, group of counties or intergov-
9 ernmental corrections entity. The department shall review the application for funding of
10 correctional facilities in accordance with criteria that consider design, cost, capacity, need, operat-
11 ing efficiency and viability based on the county's, group of counties' or intergovernmental cor-
12 rections entity's ability to provide for ongoing operations.

13 (b)(A) If the application is approved, the department shall present the application with a request
14 to finance the facility with financing agreements to the State Treasurer and the Director of the
15 Oregon Department of Administrative Services. Except as otherwise provided in subparagraph (B)
16 of this paragraph, upon approval of the request by the State Treasurer and the Director of the
17 Oregon Department of Administrative Services, the facility may be financed with financing agree-
18 ments, and certificates of participation issued pursuant thereto, as provided in ORS 283.085 to
19 283.092. All decisions approving or denying applications and requests for financing under this sec-
20 tion are final. No such decision is subject to judicial review of any kind.

21 (B) If requests to finance county correctional facility projects are submitted after February 22,
22 1996, and the requests have not been approved by the department on the date a session of the
23 Legislative Assembly convenes, the requests are also subject to the approval of the Legislative As-
24 sembly.

25 (c) After approval but prior to the solicitation of bids or proposals for the construction of a
26 project, the county, group of counties or intergovernmental corrections entity and the department
27 shall enter into a written agreement that determines the procedures, and the parties responsible, for
28 the awarding of contracts and the administration of the construction project for the approved
29 correctional facility. If the parties are unable to agree on the terms of the written agreement, the
30 Governor shall decide the terms of the agreement. The Governor's decision is final.

31 (d) After approval of a construction project, the administration of the project shall be conducted
32 as provided in the agreement required by paragraph (c) of this subsection. The agreement must re-
33 quire at a minimum that the county, group of counties or intergovernmental corrections entity shall
34 submit to the department any change order or alteration of the design of the project that, singly or
35 in the aggregate, reduces the capacity of the correctional facility or materially changes the services
36 or functions of the project. The change order or alteration is not effective until approved by the
37 department. In reviewing the change order or alteration, the department shall consider whether the
38 implementation of the change order or alteration will have any material adverse impact on the
39 parties to any financing agreements or the holders of any certificates of participation issued to fund
40 county correctional facilities under this section. In making its decision, the department may rely on
41 the opinions of the Department of Justice, bond counsel or professional financial advisers.

42 (3) Notwithstanding ORS 283.085, for purposes of this section, "financing agreement" means a
43 lease purchase agreement, an installment sale agreement, a loan agreement or any other agreement
44 to finance a correctional facility described in this section, or to refinance a previously executed fi-
45 nancing agreement for the financing of a correctional facility. The state is not required to own or

1 operate a correctional facility in order to finance it under ORS 283.085 to 283.092 and this section.
2 The state, an intergovernmental corrections entity, county or group of counties may enter into any
3 agreements, including, but not limited to, leases and subleases, that are reasonably necessary or
4 generally accepted by the financial community for purposes of acquiring or securing financing as
5 authorized by this section. In financing county correctional facilities under this section, “property
6 rights” as used in ORS 283.085 includes leasehold mortgages of the state’s rights under leases of
7 correctional facilities from counties.

8 (4) Notwithstanding any other provision of state law, county charter or ordinance, a county may
9 convey or lease to the State of Oregon, acting by and through the Department of Corrections, title
10 to interests in, or a lease of, any real property, facilities or personal property owned by the county
11 for the purpose of financing the construction, acquisition, expansion or remodeling of a correctional
12 facility. Upon the payment of all principal and interest on, or upon any other satisfaction of, the
13 financing agreement used to finance the construction, acquisition, expansion or remodeling of a
14 correctional facility, the state shall reconvey its interest in, or terminate and surrender its leasehold
15 of, the property or facilities, including the financed construction, acquisition, expansion or remodel-
16 ing, to the county. In addition to any authority granted by ORS 283.089, for the purposes of ob-
17 taining financing, the state may enter into agreements under which the state may grant to trustees
18 or lenders leases, subleases and other security interests in county property conveyed or leased to
19 the state under this subsection and in the property or facilities financed by financing agreements.

20 (5) In connection with the financing of correctional facilities, the Director of the Oregon De-
21 partment of Administrative Services may bill the Department of Corrections, and the Department
22 of Corrections shall pay the amounts billed, in the same manner as provided in ORS 283.089. As
23 required by ORS 283.091, the Department of Corrections and the Oregon Department of Adminis-
24 trative Services shall include in the Governor’s budget all amounts that will be due in each fiscal
25 period under financing agreements for correctional facilities. Amounts payable by the state under
26 a financing agreement for the construction, acquisition, expansion or remodeling of a correctional
27 facility are limited to available funds as defined in ORS 283.085, and no lender, trustee, certificate
28 holder or county has any claim or recourse against any funds of the state other than available funds.

29 (6) The director shall adopt rules that may be necessary for the administration, evaluation and
30 implementation of ORS 423.500 to 423.560. The standards shall be sufficiently flexible to foster the
31 development of new and improved supervision or rehabilitative practices and maximize local control.

32 (7) When a county assumes responsibility under ORS 423.500 to 423.560 for correctional services
33 previously provided by the department, the county and the department shall enter into an inter-
34 governmental agreement that includes a local community corrections plan consisting of program
35 descriptions, budget allocation, performance objectives and methods of evaluating each correctional
36 service to be provided by the county. The performance objectives must include in dominant part
37 reducing future criminal conduct. The methods of evaluating services must include, to the extent
38 of available information systems resources, the collection and analysis of data sufficient to deter-
39 mine the apparent effect of the services on future criminal conduct.

40 (8) All community corrections plans shall comply with rules adopted pursuant to ORS 423.500
41 to 423.560, and shall include but need not be limited to an outline of the basic structure and the
42 supervision, services and local sanctions to be applied to offenders convicted of felonies, designated
43 drug-related misdemeanors and designated person misdemeanors[*or persons who have entered into*
44 *a probation agreement on a drug enforcement misdemeanor pursuant to section 52, chapter 70, Oregon*
45 *Laws 2024,*] who are:

1 (a) On parole;

2 (b) On probation;

3 (c) On post-prison supervision;

4 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

5 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-
6 Prison Supervision to 12 months or less incarceration for a violation of a condition of parole, pro-
7 bation or post-prison supervision; and

8 (f) On conditional release under ORS 420A.206.

9 (9) All community corrections plans shall designate a community corrections manager of the
10 county or counties and shall provide that the administration of community corrections under ORS
11 423.500 to 423.560 shall be under such manager.

12 (10) No amendment to or modification of a county-approved community corrections plan shall
13 be placed in effect without prior notice to the director for purposes of statewide data collection and
14 reporting.

15 (11) The obligation of the state to provide funding and the scheduling for providing funding of
16 a project approved under this section is dependent upon the ability of the state to access public
17 security markets to sell financing agreements.

18 (12) No later than January 1 of each odd-numbered year, the Department of Corrections shall:

19 (a) Evaluate the community corrections policy established in ORS 423.475, 423.478, 423.483 and
20 423.500 to 423.560; and

21 (b) Assess the effectiveness of local revocation options.

22 (13) As used in this section, “designated drug-related misdemeanor” and “designated person
23 misdemeanor” have the meanings given those terms in ORS 423.478.

24
25 **CONFORMING AMENDMENTS**

26
27 **SECTION 17.** ORS 135.753, as amended by section 46a, chapter 70, Oregon Laws 2024, is
28 amended to read:

29 135.753. (1) If the court directs the charge or action to be dismissed, the defendant, if in custody,
30 shall be discharged. If the defendant has been released, the release agreement is exonerated and
31 security deposited shall be refunded to the defendant.

32 (2) An order for the dismissal of a charge or action, as provided in ORS 135.703 to 135.709 and
33 135.745 to 135.757, is a bar to another prosecution for the same crime if the crime is a Class B or
34 C misdemeanor; but it is not a bar if the crime charged is a Class A misdemeanor[*a misdemeanor*
35 *described in section 35, chapter 70, Oregon Laws 2024,*] or a felony.

36 (3) If any charge or action is dismissed for the purpose of consolidation with one or more other
37 charges or actions, then any such dismissal shall not be a bar to another prosecution for the same
38 offense.

39 **SECTION 18.** ORS 161.570 is amended to read:

40 161.570. (1) As used in this section, “nonperson felony” has the meaning given that term in the
41 rules of the Oregon Criminal Justice Commission.

42 (2) A district attorney may elect to treat a Class C nonperson felony or a violation of ORS
43 475.752 [(7)(b)] (7), 475.854 [(2)(c)] (2)(b) or 475.874 [(2)(c)] (2)(b) as a Class A misdemeanor. The
44 election must be made by the district attorney orally or in writing at the time of the first appear-
45 ance of the defendant. If a district attorney elects to treat a Class C felony or a violation of ORS

1 475.752 [(7)(b)] (7), 475.854 [(2)(c)] (2)(b) or 475.874 [(2)(c)] (2)(b) as a Class A misdemeanor under this
 2 subsection, the court shall amend the accusatory instrument to reflect the charged offense as a
 3 Class A misdemeanor.

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

8 (4) If a Class C felony or a violation of ORS 475.752 [(7)(b)] (7), 475.854 [(2)(c)] (2)(b) or 475.874
 9 [(2)(c)] (2)(b) is treated as a Class A misdemeanor under this section, the court shall clearly de-
 10 nominate the offense as a Class A misdemeanor in any judgment entered in the matter.

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

12 (6) Before a district attorney may make an election under subsection (2) of this section, the
 13 district attorney shall adopt written guidelines for determining when and under what circumstances
 14 the election may be made. The district attorney shall apply the guidelines uniformly.

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

17 (a) Be less than the minimum fine established by ORS 137.286 for a felony; or

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

20 **SECTION 19.** ORS 423.478, as amended by section 2, chapter 58, Oregon Laws 2024, and section
 21 47, chapter 70, Oregon Laws 2024, is amended to read:

22 423.478. (1) The Department of Corrections shall:

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

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

25 (A) Allow tracking of offenders; and

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

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

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

34 (a) On parole;

35 (b) On probation;

36 (c) On post-prison supervision;

37 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

38 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-
 39 Prison Supervision to 12 months or less incarceration for violation of a condition of parole, pro-
 40 bation or post-prison supervision; or

41 (f) On conditional release under ORS 420A.206.

42 (3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration,
 43 when an offender is committed to the custody of the supervisory authority of a county under ORS
 44 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other
 45 than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority

1 releases a person from custody under this subsection and the person is required to report as a sex
 2 offender under ORS 163A.010, the supervisory authority, as a condition of release, shall order the
 3 person to report to the Department of State Police, a city police department or a county sheriff's
 4 office or to the supervising agency, if any:

- 5 (a) When the person is released;
- 6 (b) Within 10 days of a change of residence;
- 7 (c) Once each year within 10 days of the person's birth date;
- 8 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an
 9 institution of higher education; and
- 10 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher
 11 education.

12 (4) As used in this section:

13 (a) "Attends," "institution of higher education," "works" and "carries on a vocation" have the
 14 meanings given those terms in ORS 163A.005.

15 (b) "Designated drug-related misdemeanor" means:

- 16 (A) Unlawful possession of a Schedule I controlled substance under ORS 475.752 (3)(a);
- 17 (B) Unlawful possession of a Schedule II controlled substance under ORS 475.752 (3)(b);
- 18 (C) Unlawful possession of a Schedule III controlled substance under ORS 475.752 (3)(c);
- 19 (D) Unlawful possession of a Schedule IV controlled substance under ORS 475.752 (3)(d);
- 20 [(E) *Unlawful possession of a Schedule I controlled substance under ORS 475.752 (7)(a);*]
- 21 [(F) *Unlawful possession of fentanyl under ORS 475.752 (8)(a);*]
- 22 [(G)] **(E)** Unlawful possession of hydrocodone under ORS 475.814 [(2)(a)] **(2)**;
- 23 [(H) *Unlawful possession of hydrocodone under ORS 475.814 (2)(b);*]
- 24 [(I)] **(F)** Unlawful possession of methadone under ORS 475.824 (2)(a);
- 25 [(J) *Unlawful possession of methadone under ORS 475.824 (2)(b);*]
- 26 [(K)] **(G)** Unlawful possession of oxycodone under ORS 475.834 (2)(a);
- 27 [(L) *Unlawful possession of oxycodone under ORS 475.834 (2)(b);*]
- 28 [(M)] **(H)** Unlawful possession of heroin under ORS 475.854 (2)(a);
- 29 [(N) *Unlawful possession of heroin under ORS 475.854 (2)(b);*]
- 30 [(O)] **(I)** Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 (2)(a);
- 31 [(P) *Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 (2)(b);*]
- 32 [(Q)] **(J)** Unlawful possession of cocaine under ORS 475.884 (2)(a);
- 33 [(R) *Unlawful possession of cocaine under ORS 475.884 (2)(b);*]
- 34 [(S)] **(K)** Unlawful possession of methamphetamine under ORS 475.894 (2)(a); **or**
- 35 [(T) *Unlawful possession of methamphetamine under ORS 475.894 (2)(b); or*]
- 36 [(U)] **(L)** Interfering with public transportation under ORS 166.116 (1)(e).

37 (c) "Designated person misdemeanor" means:

- 38 (A) Assault in the fourth degree constituting domestic violence if the judgment document is as
 39 described in ORS 163.160 (4);
- 40 (B) Menacing constituting domestic violence if the judgment document is as described in ORS
 41 163.190 (3); or
- 42 (C) Sexual abuse in the third degree under ORS 163.415.

43
 44 **CAPTIONS**
 45

1 **SECTION 20.** The unit captions used in this 2025 Act are provided only for the conven-
2 ience of the reader and do not become part of the statutory law of this state or express any
3 legislative intent in the enactment of this 2025 Act.

4

EFFECTIVE DATE

5

6

7 **SECTION 21.** This 2025 Act takes effect on the 91st day after the date on which the 2025
8 regular session of the Eighty-third Legislative Assembly adjourns sine die.

9
