

# Senate Bill 319

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## 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**.

Changes name of drug court program to treatment court program. Expands program to include participants with mental health issues or other issues appropriate for treatment and accountability.

## A BILL FOR AN ACT

1  
2 Relating to treatment court programs; amending ORS 3.450, 137.656, 475A.120 and 475A.126.

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

4 **SECTION 1.** ORS 3.450 is amended to read:

5 3.450. (1) As used in this section, “[*drug*] **treatment** court program” means a program in which:

6 (a) Individuals who are before the court obtain treatment for substance abuse **or mental health**  
7 **issues, or other issues for which the court deems treatment and accountability appropriate,**  
8 and report regularly to the court on the progress of their treatment; and

9 (b) A local [*drug*] **treatment** court team, consisting of the court, agency personnel and treat-  
10 ment and service providers, monitors the individuals’ participation in treatment **and holds them**  
11 **accountable for their actions.**

12 (2)(a) The governing body of a county or a treatment provider may establish fees that individuals  
13 participating in a [*drug*] **treatment** court program may be required to pay for treatment and other  
14 services provided as part of the [*drug*] **treatment** court program.

15 (b) A court may order an individual participating in a [*drug*] **treatment** court program to pay  
16 fees to participate in the program. Fees imposed under this subsection may not be paid to the court.

17 (3) Records that are maintained by the circuit court specifically for the purpose of a [*drug*]  
18 **treatment** court program must be maintained separately from other court records. Records main-  
19 tained by a circuit court specifically for the purpose of a [*drug*] **treatment** court program are con-  
20 fidential and may not be disclosed except in accordance with regulations adopted under 42 U.S.C.  
21 290dd-2, including under the circumstances described in subsections (4) to (6) of this section.

22 (4) If the individual who is the subject of the record gives written consent, a record described  
23 in subsection (3) of this section may be disclosed to members of the local [*drug*] **treatment** court  
24 team in order to develop treatment plans, monitor progress in treatment and determine outcomes  
25 of participation in the [*drug*] **treatment** court program.

26 (5) A record described in subsection (3) of this section may not be introduced into evidence in  
27 any legal proceeding other than the [*drug*] **treatment** court program unless:

28 (a) The individual who is the subject of the record gives written consent for introduction of the  
29 record; or

30 (b) The court finds good cause for introduction. In determining whether good cause exists for

**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 purposes of this paragraph, the court shall weigh the public interest and the need for disclosure  
2 against the potential injury caused by the disclosure to:

3 (A) The individual who is the subject of the record;

4 (B) The individual-physician relationship; and

5 (C) The treatment services being provided to the individual who is the subject of the record.

6 (6) A court, the State Court Administrator or the Oregon Criminal Justice Commission may use  
7 records described in subsection (3) of this section and other *[drug] treatment* court program infor-  
8 mation to track and develop statistics about the effectiveness, costs and other areas of public in-  
9 terest concerning *[drug] treatment* court programs. A court, the State Court Administrator or the  
10 Oregon Criminal Justice Commission may release statistics developed under this subsection and  
11 analyses based on the statistics to the public. Statistics and analyses released under this subsection  
12 may not contain any information that identifies an individual participant in a *[drug] treatment*  
13 court program.

14 **SECTION 2.** ORS 137.656 is amended to read:

15 137.656. (1) The purpose of the Oregon Criminal Justice Commission is to improve the effec-  
16 tiveness and efficiency of state and local criminal justice systems by providing a centralized and  
17 impartial forum for statewide policy development and planning.

18 (2) The primary duty of the commission is to develop and maintain a state criminal justice policy  
19 and comprehensive, long-range plan for a coordinated state criminal justice system that encompasses  
20 public safety, offender accountability, crime reduction and prevention and offender treatment and  
21 rehabilitation. The plan must include, but need not be limited to, recommendations regarding:

22 (a) Capacity, utilization and type of state and local prison and jail facilities;

23 (b) Implementation of community corrections programs;

24 (c) Alternatives to the use of prison and jail facilities;

25 (d) Appropriate use of existing facilities and programs;

26 (e) Whether additional or different facilities and programs are necessary;

27 (f) Methods of assessing the effectiveness of juvenile and adult correctional programs, devices  
28 and sanctions in reducing future criminal conduct by juvenile and adult offenders; and

29 (g) Methods of reducing the risk of future criminal conduct.

30 (3) Other duties of the commission are:

31 (a) To conduct joint studies by agreement with other state agencies, boards or commissions on  
32 any matter within the jurisdiction of the commission.

33 (b) To provide Oregon criminal justice analytical and statistical information to federal agencies  
34 and serve as a clearinghouse and information center for the collection, preparation, analysis and  
35 dissemination on state and local sentencing practices.

36 (c) To provide technical assistance and support to local public safety coordinating councils.

37 (d) To receive grant applications to start or expand *[drug] treatment* court programs as defined  
38 in ORS 3.450, to make rules to govern the grant process and to award grant funds according to the  
39 rules.

40 (4) The commission shall establish by rule the information that must be submitted under ORS  
41 137.010 (9) and the methods for submitting the information. A rule adopted under this subsection  
42 must be approved by the Chief Justice of the Supreme Court before it takes effect.

43 **SECTION 3.** ORS 475A.120 is amended to read:

44 475A.120. (1) The provisions of this section apply to a forfeiting agency other than the state.

45 (2) Except as otherwise provided by intergovernmental agreement and this section, a forfeiting

1 agency may:

2 (a) Sell, lease, lend or transfer forfeited property to any federal, state or local law enforcement  
3 agency or district attorney.

4 (b) Sell forfeited property by public or other commercially reasonable sale and pay from the  
5 proceeds the expenses of keeping and selling the property.

6 (c) Retain forfeited property.

7 (d) With written authorization from the district attorney for the county in which the property  
8 was seized, destroy any forfeited firearms or controlled substances.

9 (3) If the forfeiting agency is a political subdivision other than a county, the political subdivision  
10 shall enter into an agreement with the county pursuant to ORS chapter 190 to provide a portion of  
11 the forfeiture proceeds to the county. Any intergovernmental agreements or ordinances providing  
12 for the distribution of forfeiture proceeds in effect on July 24, 1989, shall remain valid unless  
13 changed by the parties.

14 (4) A forfeiting agency shall distribute forfeiture proceeds as follows:

15 (a) Costs shall be paid first, including costs, disbursements and attorney fees as defined in ORCP  
16 68 A and special expenses, including the provision of lawful currency, incurred by any seizing or  
17 forfeiting agency in investigating and prosecuting a specific case. The forfeiting agency may pay  
18 expenses of servicing or maintaining the seized property under ORS 475A.045 (3) under the pro-  
19 visions of this paragraph. The forfeiting agency may not pay expenditures made in connection with  
20 the ordinary maintenance and operation of the seizing or forfeiting agency under the provisions of  
21 this paragraph.

22 (b) After payment of costs under paragraph (a) of this subsection, the forfeiting agency shall:

23 (A) Deduct an amount equal to five percent of the proceeds and deposit that amount in the Il-  
24 legal Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS 475.495 (5);

25 (B) Deduct an amount equal to 2.5 percent of the proceeds and deposit that amount in the Asset  
26 Forfeiture Oversight Account established by ORS 475A.160 for the purposes specified in ORS  
27 475A.155;

28 (C) Deduct an amount equal to 20 percent of the proceeds and deposit that amount in the  
29 Oregon Criminal Justice Commission Account established under ORS 137.662 for disbursement to  
30 *[drug] treatment* court programs as described in ORS 3.450; and

31 (D) Deduct an amount equal to 10 percent of the proceeds and deposit that amount in the State  
32 Commission on Children and Families Account established by ORS 417.733 for disbursement to relief  
33 nurseries as described in ORS 417.788.

34 (c) If the forfeiting agency has entered into an agreement with a county under subsection (3)  
35 of this section, after paying costs under paragraph (a) of this subsection and making the deductions  
36 required by paragraph (b) of this subsection, the forfeiting agency shall pay the county the amounts  
37 required by the agreement.

38 (d) After making all payments and deductions required by paragraphs (a) to (c) of this sub-  
39 section, the forfeiting agency may use forfeiture proceeds, including amounts received by a county  
40 under paragraph (c) of this subsection and pursuant to an intergovernmental agreement entered into  
41 under ORS 475A.115, only for:

42 (A) The purchase of equipment necessary for the enforcement of laws relating to the unlawful  
43 delivery, distribution, manufacture or possession of controlled substances;

44 (B) Cash for use in law enforcement activities;

45 (C) Drug awareness and drug education programs offered in middle schools and high schools;

1 (D) The expenses of a forfeiting agency in operating joint narcotic operations with other for-  
2 feiting agencies pursuant to the terms of an intergovernmental agreement, including paying for  
3 rental space, utilities and office equipment; and

4 (E) Expenses of a district attorney in criminal prosecutions for unlawful delivery, distribution,  
5 manufacture or possession of controlled substances, as determined through intergovernmental  
6 agreement between the forfeiting agency and the district attorney.

7 (5) Notwithstanding subsection (4) of this section, growing equipment and laboratory equipment  
8 seized by a forfeiting agency that was used, or intended for use, in the manufacturing of controlled  
9 substances may be donated to a public school, community college or institution of higher education.

10 (6) A political subdivision shall sell as much property as may be needed to make the distrib-  
11 utions required by subsection (4) of this section. Distributions required under subsection (4)(b) of this  
12 section must be made once every three months and are due within 20 days of the end of each  
13 quarter. No interest shall accrue on amounts that are paid within the period specified by this sub-  
14 section.

15 (7) The forfeiting agency, and any agency which receives forfeited property or proceeds from the  
16 sale of forfeited property, shall maintain written documentation of each sale, decision to retain,  
17 transfer or other disposition.

18 (8) Forfeiture counsel shall report each forfeiture to the Asset Forfeiture Oversight Advisory  
19 Committee as soon as reasonably possible after the conclusion of forfeiture proceedings, whether or  
20 not the forfeiture results in an entry of judgment under ORS 475A.110. The committee shall develop  
21 and make available forms for the purpose of reporting forfeitures.

22 (9) Law enforcement agencies shall supply to forfeiture counsel all information requested by  
23 forfeiture counsel necessary for the preparation of the report required by subsection (8) of this  
24 section.

25 (10) Political subdivisions of the state who receive forfeiture proceeds under this section shall  
26 submit a report to the Asset Forfeiture Oversight Advisory Committee for any year in which those  
27 proceeds are received. The committee shall develop and make available forms for the purpose of  
28 those reports. The forms shall require the political subdivision to report on how proceeds received  
29 by the political subdivision have been or will be used, and such other information as may be re-  
30 quested by the committee. Reports shall be submitted each December 15 for the last ending fiscal  
31 year of the political subdivision.

32 (11) This section applies only to forfeiture proceeds arising out of prohibited conduct as defined  
33 by ORS 475A.005 (11), and does not apply to proceeds from forfeiture based on other conduct.

34 **SECTION 4.** ORS 475A.126 is amended to read:

35 475A.126. (1) The provisions of this section apply only when the forfeiting agency is the state.

36 (2) Except as otherwise provided by intergovernmental agreement and this section, a forfeiting  
37 agency may:

38 (a) Sell, lease, lend or transfer forfeited property to any federal, state or local law enforcement  
39 agency or district attorney.

40 (b) Sell forfeited property by public or other commercially reasonable sale and pay from the  
41 proceeds the expenses of keeping and selling the property.

42 (c) Retain forfeited property.

43 (d) With written authorization from the district attorney for the county in which the property  
44 was seized, destroy any forfeited firearms or controlled substances.

45 (3) The forfeiting agency shall distribute forfeiture proceeds as follows:

1 (a) Costs shall be paid first, including costs, disbursements and attorney fees as defined in ORCP  
2 68 A and special expenses, including the provision of lawful currency, incurred by any seizing or  
3 forfeiting agency in investigating and prosecuting a specific case. The forfeiting agency may pay  
4 expenses of servicing or maintaining the seized property under ORS 475A.045 (3) under the pro-  
5 visions of this paragraph. The forfeiting agency may not pay expenditures made in connection with  
6 the ordinary maintenance and operation of the seizing or forfeiting agency under the provisions of  
7 this paragraph. Any amount paid to or retained by the Department of Justice under this paragraph  
8 shall be deposited in the Criminal Justice Revolving Account in the State Treasury. Any amount  
9 paid to or retained by the Oregon State Police under this paragraph shall be deposited in the State  
10 Police Account.

11 (b) After payment of costs under paragraph (a) of this subsection, the forfeiting agency shall:

12 (A) Deduct an amount equal to 10 percent of the proceeds and deposit that amount in the Illegal  
13 Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS 475.495 (5);

14 (B) Deduct an amount equal to three percent of the proceeds, not to exceed \$50,000 in a  
15 biennium, and deposit that amount in the Asset Forfeiture Oversight Account established by ORS  
16 475A.160 for the purposes specified in ORS 475A.155;

17 (C) Deduct an amount equal to 20 percent of the proceeds and deposit that amount in the  
18 Oregon Criminal Justice Commission Account established under ORS 137.662 for disbursement to  
19 [drug] **treatment** court programs as described in ORS 3.450; and

20 (D) Deduct an amount equal to 10 percent of the proceeds and deposit that amount in the State  
21 Commission on Children and Families Account established by ORS 417.733 for disbursement to relief  
22 nurseries as described in ORS 417.788.

23 (c) If the forfeiting agency has entered into an intergovernmental agreement with a political  
24 subdivision under ORS 475A.115, or has entered into an agreement with any other law enforcement  
25 agency of the state relating to distribution of forfeiture proceeds, after paying costs under paragraph  
26 (a) of this subsection and making the deductions required by paragraph (b) of this subsection, the  
27 forfeiting agency shall pay an equitable portion of the forfeiture proceeds to each agency partic-  
28 ipating in the seizure or forfeiture as provided by the agreement.

29 (d) After making all payments and deductions required by paragraphs (a) to (c) of this sub-  
30 section, the forfeiting agency shall distribute the remaining proceeds as follows:

31 (A) If no law enforcement agency other than the Department of Justice participated in the sei-  
32 zure or forfeiture, the remaining proceeds, and proceeds received by the Department of Justice un-  
33 der paragraph (c) of this subsection, shall be divided between the Criminal Justice Revolving  
34 Account and the Special Crime and Forfeiture Account established by ORS 475A.130 according to  
35 the following schedule:

36 (i) One hundred percent of the first \$200,000 accumulated shall be deposited in the Criminal  
37 Justice Revolving Account.

38 (ii) Seventy-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving  
39 Account and the balance in the Special Crime and Forfeiture Account.

40 (iii) Fifty percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Ac-  
41 count and the balance in the Special Crime and Forfeiture Account.

42 (iv) Twenty-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving  
43 Account and the balance in the Special Crime and Forfeiture Account.

44 (v) One hundred percent of all additional sums shall be deposited in the Special Crime and  
45 Forfeiture Account.

1 (B) If no law enforcement agency other than the Department of State Police participated in the  
2 seizure or forfeiture, the remaining proceeds, and proceeds received by the Department of State  
3 Police under paragraph (c) of this subsection, shall be divided between the State Police Account and  
4 the Special Crime and Forfeiture Account according to the following schedule:

5 (i) One hundred percent of the first \$600,000 accumulated shall be deposited in the State Police  
6 Account.

7 (ii) Seventy-five percent of the next \$300,000 shall be deposited in the State Police Account and  
8 the balance in the Special Crime and Forfeiture Account.

9 (iii) Fifty percent of the next \$200,000 shall be deposited in the State Police Account and the  
10 balance in the Special Crime and Forfeiture Account.

11 (iv) Twenty-five percent of the next \$200,000 shall be deposited in the State Police Account and  
12 the balance in the Special Crime and Forfeiture Account.

13 (v) One hundred percent of all additional sums shall be deposited in the Special Crime and  
14 Forfeiture Account.

15 (4) Forfeiture proceeds distributed under subsection (3)(d) of this section may be used only for:

16 (a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful  
17 delivery, distribution, manufacture or possession of controlled substances;

18 (b) Cash for use in law enforcement activities;

19 (c) Drug awareness and drug education programs offered in middle schools and high schools; and

20 (d) The expenses of a forfeiting agency in operating joint narcotic operations with other for-  
21 feiting agencies pursuant to the terms of an intergovernmental agreement, including paying for  
22 rental space, utilities and office equipment.

23 (5) A forfeiting agency shall sell as much property as may be needed to make the distributions  
24 required by subsection (3) of this section. Distributions required under subsection (3)(b) of this sec-  
25 tion must be made once every three months and are due within 20 days of the end of each quarter.  
26 No interest shall accrue on amounts that are paid within the period specified by this subsection.

27 (6) The forfeiting agency, and any agency that receives forfeited property or proceeds from the  
28 sale of forfeited property, shall maintain written documentation of each sale, decision to retain,  
29 transfer or other disposition of the property or proceeds.

30 (7) Forfeiture counsel shall report each forfeiture to the Asset Forfeiture Oversight Advisory  
31 Committee as soon as reasonably possible after the conclusion of forfeiture proceedings, whether or  
32 not the forfeiture results in an entry of judgment under ORS 475A.110. The committee shall develop  
33 and make available forms for the purpose of reporting forfeitures.

34 (8) Law enforcement agencies shall supply to forfeiture counsel all information requested by  
35 forfeiture counsel necessary for the preparation of the report required by subsection (7) of this  
36 section.

37