

# A-Engrossed Senate Bill 973

Ordered by the Senate April 22  
Including Senate Amendments dated April 22

Sponsored by COMMITTEE ON JUDICIARY

## 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.

*[Requires Oregon Health Authority to research, study and compare behavioral health treatments in other states and report findings and conclusions to interim judiciary committees of Legislative Assembly no later than September 20, 2020.]*

**Establishes Behavioral Health Justice Reinvestment Program administered by Behavioral Health Justice Reinvestment Grant Review Committee established in Oregon Criminal Justice Commission. Specifies that purpose of program is to provide grants to counties and Indian tribes to establish evidence-based programs to provide comprehensive community supports and services to individuals with mental health or substance use disorders and reduce individuals' involvement in criminal justice system, decrease hospitalizations and decrease institutional placements. Specifies membership, duties and authority of committee.**

**Requires committee to administer program in which counties, Indian tribes or regional consortia of counties or Indian tribes may apply for state funds for comprehensive community supports and services.**

**Requires committee and Oregon Health Authority to jointly administer pilot project to provide technical assistance and performance incentives to coordinated care organizations to test new strategies to reduce involvement in criminal justice system by members of coordinated care organization whose inadequately treated mental illnesses or substance use disorders are primary drivers of members' involvement in criminal justice system.**

## A BILL FOR AN ACT

1  
2 Relating to behavioral health.

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

4 **SECTION 1. (1) The Behavioral Health Justice Reinvestment Program is established in**  
5 **recognition of the shortage of comprehensive community supports and services for individ-**  
6 **uals with mental health or substance use disorders, leading to their involvement with the**  
7 **criminal justice system, hospitalizations and institutional placements. The purpose of the**  
8 **program is to address this need by awarding grants to counties and Indian tribes to establish**  
9 **evidence-based programs to provide the needed supports and services.**

10 **(2) The Behavioral Health Justice Reinvestment Grant Review Committee established in**  
11 **section 3 of this 2019 Act shall adopt rules for administering the program, including rules:**

12 **(a) Identifying the target population of people with frequent criminal justice involvement**  
13 **and behavioral health conditions to be served by the programs funded with the grants;**

14 **(b) Prescribing a methodology for the committee to review and approve grant applica-**  
15 **tions, subject to the commission's approval;**

16 **(c) Establishing program or service outcome measures;**

17 **(d) Establishing criteria for allowing a grantee to use a grant or a portion of a grant to:**

18 **(A) Expand the workforce of providers of mental health or substance abuse services in**  
19 **the community; or**

**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) Provide community housing for individuals with mental health or substance use dis-  
2 orders; and

3 (e) Allowing the committee to terminate an agreement with an entity that fails to meet  
4 the grant requirements or has been found to have misused funds or committed fraud. The  
5 ability to meet the grant requirements may be a consideration in future funding or the  
6 amount of funding.

7 (3) The committee shall allocate funds in the Behavioral Health Justice Reinvestment  
8 Account established in section 2 of this 2019 Act to grantees. The funds may not be used for  
9 a purpose other than the programs providing supports and services for which the grants  
10 were awarded.

11 (4) If unallocated funds remain at the conclusion of the grant acceptance period, the  
12 committee may establish a supplemental grant period and distribute the unallocated funds  
13 to the counties or Indian tribes that received grants.

14 (5) Up to 20 percent of the funds in the account may be used for operating a statewide  
15 program to support the design and implementation of community-based services, including  
16 but not limited to:

17 (a) Technical assistance to prospective grantees in developing proposals, particularly for  
18 developing proposals for supportive housing;

19 (b) Technical assistance to grantees for troubleshooting data collection requirements and  
20 sharing information with third parties as necessary for carrying out the programs;

21 (c) Statewide training, provided in-person and remotely, for grantees and nongrantees,  
22 focused on improving outcomes for the target population;

23 (d) Making resources available to district attorneys and defense attorneys for consulta-  
24 tion on cases involving defendants with complex behavioral health issues;

25 (e) Developing or strengthening a centralized system to make available to communities  
26 practitioners in professional specialties for which there is a shortage, including practitioners  
27 of addiction medicine and psychiatry; and

28 (f) A one-time investment in information technology to support the data system needs  
29 for the evaluation, accountability and innovation components of the program.

30 (6)(a) The committee shall procure and enter into contracts for goods, services and per-  
31 sonal services related to the creation, operation, maintenance and management of informa-  
32 tion technology systems for the purpose of carrying out this section.

33 (b) The committee shall procure and enter into contracts for goods, services and personal  
34 services related to designing, developing, conducting, performing and completing research,  
35 review, audits, statistical analyses, investigations, studies, reports and evaluations for the  
36 purpose of carrying out this section.

37 (7) Five percent of the funds in the account must be used to support outcome measures  
38 or evaluation.

39 (8) An application for a grant must be submitted by the Indian tribe or the local public  
40 safety coordinating council on behalf of the county and:

41 (a) Must include:

42 (A) Letters of support and commitments from community leaders or organizations that  
43 are not members of the local public safety coordinating council, including but not limited to:

44 (i) Agencies working with homeless individuals;

45 (ii) Behavioral health care providers;

1 (iii) Coordinated care organizations; and

2 (iv) Local hospitals.

3 (B) For applications from counties, a report of the input from the local Indian tribes and,  
4 to the extent feasible, an explanation of how the input was incorporated into the design of  
5 the program, supports and services.

6 (C) For applications from Indian tribes, a report of the input from the local public safety  
7 coordinating council and, to the extent feasible, an explanation of how the input was incor-  
8 porated into the design of the program, supports and services.

9 (D) An agreement to screen all participants receiving supports and services funded by  
10 the grants for potential eligibility for medical assistance and to assist eligible participants  
11 to apply for medical assistance, including an agreement for a process for sharing data and  
12 protecting the confidentiality of recipients among the program participants.

13 (E) A process for program partners, participating jails and hospitals to:

14 (i) Provide information upon admission or at intake about the potential risks and benefits  
15 of tribal notification; and

16 (ii) Offer tribal members the opportunity to disclose their statuses and situations to the  
17 Indian tribe of their choosing.

18 (b) May include a request to have more flexibility in using existing state funding to pro-  
19 vide supports and services that address the need described in subsection (1) of this section.

20 (9) Annually, grantees shall report to the committee and to the Oregon Health Authority  
21 the medical assistance enrollment data in addition to other outcome measures or evaluation  
22 metrics collected as part of the grant for participants receiving supports and services pro-  
23 vided with funds from the grants.

24 **SECTION 2.** The Behavioral Health Justice Reinvestment Account is established in the  
25 State Treasury, separate and distinct from the General Fund. All moneys in the account are  
26 continuously appropriated to the Behavioral Health Justice Reinvestment Grant Review  
27 Committee for the purpose of carrying out section 1 of this 2019 Act.

28 **SECTION 3.** (1) The Behavioral Health Justice Reinvestment Grant Review Committee is  
29 established in the Oregon Criminal Justice Commission consisting of 19 members as follows:

30 (a) The Director of the Oregon Health Authority, or the director's designee.

31 (b) The Director of the Department of Corrections, or the director's designee.

32 (c) The Chief Justice of the Supreme Court, or the Chief Justice's designee.

33 (d) The executive director of the Oregon Criminal Justice Commission or the director's  
34 designee.

35 (e) The Director of the Housing and Community Services Department or the director's  
36 designee.

37 (f) Nine members appointed by the Governor including:

38 (A) A district attorney.

39 (B) An attorney specializing in defense of individuals with mental health or substance  
40 use disorders.

41 (C) A chief of police.

42 (D) A county commissioner.

43 (E) A director of a hospital that provides acute mental health treatment.

44 (F) A representative of a community-based mental health treatment facility or a practi-  
45 tioner in a community-based mental health treatment facility.

1 (G) A representative of a community-based substance use disorder treatment facility or  
2 a practitioner in a community-based substance use disorder treatment facility.

3 (H) A sheriff.

4 (I) A representative of an Indian tribe.

5 (g) One nonvoting member appointed by the President of the Senate from among mem-  
6 bers of the Senate.

7 (h) One nonvoting member appointed by the Speaker of the House of Representatives  
8 from among members of the House of Representatives.

9 (i) Three members of the public that represent the age demographics of the target pop-  
10 ulation.

11 (2) A majority of the voting members of the committee constitutes a quorum for the  
12 transaction of business.

13 (3) The directors of the Oregon Criminal Justice Commission and the Oregon Health  
14 Authority or their designees shall serve as cochairpersons.

15 (4) If there is a vacancy for any cause, the appointing authority shall make an appoint-  
16 ment to become effective immediately.

17 (5) The committee shall meet at times and places specified by the call of the chairperson  
18 or a majority of the voting members of the committee.

19 (6) The Oregon Criminal Justice Commission shall provide staff support to the commit-  
20 tee.

21 (7) Legislative members of the committee shall be entitled to payment of compensation  
22 and expenses under ORS 171.072, payable from funds appropriated to the Legislative Assem-  
23 bly.

24 (8) Members of the committee who are not members of the Legislative Assembly are not  
25 entitled to compensation but may be reimbursed for actual and necessary travel and other  
26 expenses incurred by the member in the performance of the member's official duties in the  
27 manner and amount provided in ORS 292.495.

28 (9) All agencies of state government, as defined in ORS 174.111, are directed to assist the  
29 committee in the performance of the duties of the committee and, to the extent permitted  
30 by laws relating to confidentiality, to furnish information and advice that the members of  
31 the committee consider necessary to perform their duties.

32 **SECTION 4.** (1) The Behavioral Health Justice Reinvestment Grant Review Committee  
33 established in section 3 of this 2019 Act shall administer the Behavioral Health Justice Re-  
34 investment Program established in section 1 of this 2019 Act, in consultation with the Oregon  
35 Health Authority.

36 (2) The committee shall be responsible for approving grant applications and for distrib-  
37 uting the grant moneys in accordance with rules adopted by the committee under section 1  
38 of this 2019 Act. The committee shall designate a percentage of the funds to be set aside and  
39 awarded to at least one Indian tribe.

40 (3) The committee may advocate to state agencies on behalf of grantees to reduce the  
41 administrative burden of grants with similar goals, services and activities as those in the  
42 Behavioral Health Justice Reinvestment Program.

43 (4) The committee shall develop additional financial requirements for a grantee's use of  
44 funds as described in subsection (3) of this section.

45 (5) The committee may determine funding priorities based on the results of the outcome

1 measures or the evaluation tools established by the quality improvement subcommittee. The  
2 subcommittee shall develop technical assistance and training strategies to support the  
3 grantees in meeting the grant outcome measurement requirements.

4 (6) The committee shall establish partnerships with appropriate agencies and other enti-  
5 ties to ensure that the information technology infrastructure is sufficient to efficiently col-  
6 lect and analyze program data and to transfer data as needed. To the greatest extent  
7 practicable, the committee shall use existing information technology systems and staff ex-  
8 pertise.

9 **SECTION 5.** The Behavioral Health Justice Reinvestment Grant Review Committee shall  
10 establish a quality improvement subcommittee to:

11 (1) Establish outcome measures or evaluation tools for programs receiving grants under  
12 the Behavioral Health Justice Reinvestment Program;

13 (2) Establish a statewide system for tracking simple, clear and meaningful outcome data  
14 that is timely and easily accessed to inform best practices and improve outcomes for indi-  
15 vidual participants; and

16 (3) Establish or utilize an existing institutional review board to ensure that data collected  
17 is handled appropriately and is maintained in compliance with state and federal privacy laws.

18 **SECTION 6.** As used in sections 1 to 6 of this 2019 Act:

19 (1) “Comprehensive community supports and services” includes:

20 (a) Community-based mental health or substance use disorder treatment programs;

21 (b) Community-based services necessary to restore a defendant’s fitness to proceed, as  
22 described in ORS 161.370 (2)(a);

23 (c) Evidence-based programs designed to reduce hospital and jail utilization by target  
24 populations; and

25 (d) Programs aimed at diverting individuals with nonperson criminal charges experienc-  
26 ing mental illness or substance use disorders from the criminal justice system.

27 (2) “County” includes a single county or a regional consortium of counties.

28 **SECTION 7.** (1) At least once per biennium, the Behavioral Health Justice Reinvestment  
29 Grant Review Committee shall, in conjunction with the Oregon Health Authority, identify:

30 (a) The costs to state government that were avoided as a result of the Behavioral Health  
31 Justice Reinvestment Program established in section 1 of this 2019 Act; and

32 (b) Any increased costs to local governments as a result of the program.

33 (2) No later than January 1 of each odd-numbered year, the committee shall submit a  
34 report to the Legislative Assembly, in the manner provided by ORS 192.245, that includes the  
35 costs described in subsection (1) of this section and describes the methodology employed by  
36 the committee in determining the costs.

37 (3) Annually, the committee shall submit a report, in the manner provided in ORS  
38 192.245, on the outcome measures or the results of evaluations of the program to the interim  
39 committees of the Legislative Assembly related to health and the judiciary and to the Gov-  
40 ernor.

41 **SECTION 8.** (1) The Behavioral Health Justice Reinvestment Grant Review Committee  
42 established in section 3 of this 2019 Act shall administer a program in which Oregon counties,  
43 Indian tribes or regional consortia of counties or Indian tribes may apply to the committee  
44 for state funds for the investments made by the counties, Indian tribes or consortia in  
45 comprehensive community supports and services for the target population of the Behavioral

1 **Health Justice Reinvestment Program, for the purpose of enhancing or sustaining the sup-**  
2 **ports and services.**

3 **(2) The committee shall establish priorities for the funds based on specified factors such**  
4 **as the size of the population of a county, the utilization of the Oregon State Hospital by the**  
5 **residents of the county and the availability of housing units.**

6 **(3) The committee may provide enhanced funds to encourage regional program projects.**

7 **(4) The local investments matched by state funds may not be used to supplant existing**  
8 **sources of funding that could be used to provide supports and services to the target popu-**  
9 **lation, including but not limited to:**

10 **(a) Medical assistance funding;**

11 **(b) Federal grants;**

12 **(c) Local funding;**

13 **(d) State grants or other state funding; or**

14 **(e) Other third-party sources of funding to reimburse the cost of the supports and ser-**  
15 **vices.**

16 **(5) The county, tribal or regional investment used to leverage a state match may include:**

17 **(a) County government or tribal funds.**

18 **(b) Financial commitments by entities other than counties or tribes that are specifically**  
19 **designated for providing Behavioral Health Justice Reinvestment Program supports and**  
20 **services.**

21 **(c) The value of newly dedicated or donated real estate or other tangible property, in-**  
22 **cluding but not limited to:**

23 **(A) Land;**

24 **(B) Buildings;**

25 **(C) Remodeling costs that address the needs identified by the Behavioral Health Justice**  
26 **Reinvestment Program;**

27 **(D) Donated program space;**

28 **(E) Vehicles; or**

29 **(F) Interest on loans specific to housing, treatment facilities or related construction for**  
30 **the target population.**

31 **SECTION 9. The Behavioral Health Justice Reinvestment Grant Review Committee and**  
32 **the Oregon Health Authority shall jointly administer a pilot project providing technical as-**  
33 **sistance and performance incentives to coordinated care organizations that:**

34 **(1) Test new strategies to reduce the involvement in the criminal justice system and**  
35 **improve the health outcomes of members of the coordinated care organization:**

36 **(a) Who are in the target population of the Behavioral Health Justice Reinvestment**  
37 **Program established in section 1 of this 2019 Act; and**

38 **(b) Whose inadequately treated mental illness or substance use disorder is a primary**  
39 **driver of the member's involvement in the criminal justice system.**

40 **(2) Agree to accept financial responsibility for primary and behavioral health care pro-**  
41 **vided in one or more jails in this state.**

42