

## A-Engrossed Senate Bill 755

Ordered by the Senate April 23  
Including Senate Amendments dated April 23

Sponsored by COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION (at the request of Senator Floyd Prozanski)

### 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.

**Modifies and provides for implementation of Ballot Measure 110 (2020).**

**Renames "Addiction Recovery Center" as "Behavioral Health Resource Network" and modifies services that must be provided by networks. Renames "24/7" triage as "screening" and specifies requirements for screening.**

**Requires Oversight and Accountability Council to provide funding, in addition to grants to agencies and organizations participating in networks. Modifies requirements for receiving grants and funding.**

**Modifies quorum requirement for council. Requires members of council to submit statements of economic interest to Oregon Government Ethics Commission.**

**Requires Oregon Health Authority to post on website information about recipients of grants or funding.**

**Removes sunset on Behavioral Health Resource Network statewide telephone hotline established by authority. Specifies requirements for hotline.**

**Directs Division of Audits of office of Secretary of State to conduct performance audits and financial reviews, beginning with real-time audit no later than December 31, 2023. Specifies scope of audits and financial reviews.**

**Requires authority to quarterly report to Legislative Assembly on expenditures from Drug Treatment and Recovery Services Fund.**

**Provides that minimum fine for Class E violation is \$45. Directs court to dismiss Class E violation citation upon receiving verification that person completed substance use disorder screening. Requires enforcement officer issuing Class E violation citation to provide person receiving citation with information concerning how person may obtain screening. Directs Legislative Assembly to allocate moneys deposited into Criminal Fine Account as payment of fines on Class E violations to Drug Treatment and Recovery Services Fund. Provides that person may not be charged with crime of failure to appear on Class E violation.**

**Prohibits juvenile court from waiving Class E violation proceeding to municipal court. Authorizes juvenile court to order youth to undergo assessment and treatment if youth is within jurisdiction of court for committing act that, if committed by adult, would constitute Class E violation. Provides that municipal and justice courts have no jurisdiction over Class E violations.**

**Makes possession of substantial quantity of Schedule I controlled substance, including heroin, lysergic acid diethylamide, 3,4-methylenedioxymethamphetamine, psilocybin or psilocin, Class B felony punishable by maximum of 10 years' imprisonment, \$250,000 fine, or both. Provides that possession of substantial quantity of Schedule II controlled substance, including cocaine, methamphetamine and fentanyl, constitutes Class C felony punishable by maximum of five years' imprisonment, \$125,000 fine, or both. Reduces penalties for possession of less than 40 pills, tablets, capsules or user units of hydrocodone to Class E violation punishable by maximum of \$100 fine. Establishes substantial quantities of fentanyl for purposes of unlawful delivery, manufacture and possession offenses and mandatory sentences. Authorizes use of presumptive test for controlled substances as prima facie evidence of identity of controlled substance in Class E violation proceeding. Authorizes district attorney to initiate Class E violation proceeding when person is charged with offense that would constitute Class E violation had offense been committed on or after February 1, 2021.**

**Makes form and style changes to provisions in Ballot Measure 110 (2020).**

**Declares emergency, effective on passage.**

### A BILL FOR AN ACT

1

2 Relating to substance use; creating new provisions; amending ORS 51.050, 135.242, 137.300, 153.012,

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.

153.018, 153.019, 153.021, 153.064, 153.992, 161.570, 221.339, 244.050, 419C.370, 423.478, 475.235, 475.752, 475.814, 475.824, 475.834, 475.854, 475.874, 475.884, 475.894, 475.900, 475.925, 475B.759 and 670.280 and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 22, 23, 24 and 25, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)); and declaring an emergency.

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

## FINDINGS AND POLICY

**SECTION 1.** Section 1, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

**Sec. 1.** (1)(a) The people of Oregon find that drug addiction and overdoses are a serious problem in Oregon and that Oregon needs to expand access to drug treatment.

(b) The people of Oregon further find that a health-based approach to addiction and overdose is more effective, humane and cost-effective than criminal punishments. Making people criminals because they suffer from addiction is expensive, ruins lives and can make access to treatment and recovery more difficult.

(2)(a) The purpose of *[this]* **the** Drug Addiction Treatment and Recovery Act of 2020 is to make **screening** health assessment, treatment and recovery services for drug addiction available to all those who need and want access to those services and to adopt a health approach to drug addiction by removing criminal penalties for low-level drug possession.

(b) It is the policy of the State of Oregon that **screening** health assessment, treatment and recovery services for drug addiction are available to all those who need and want access to those services.

(3) The provisions of *[this Act]* **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, shall be interpreted consistently with the findings, purposes and policy objectives stated in this section and shall not be limited by any policy set forth in Oregon law that could conflict with or be interpreted to conflict with the purposes and policy objectives stated in this section.

## EXPANDING TREATMENT AND SERVICES

**SECTION 2.** Section 2, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

**Sec. 2.** *[Grants Program. (1) The Oversight and Accountability Council shall oversee and approve grants to implement Addiction Recovery Centers and increase access to community care, as set forth below.]*

*[(2) **Addiction Recovery Centers.** The Oversight and Accountability Council shall provide grants to existing agencies or organizations, whether government or community-based, to create Addiction Recovery Centers for the purposes of immediately triaging the acute needs of people who use drugs and assessing and addressing any on-going needs thorough intensive case management and linkage to care and services.]*

*[(a) Grants must be disbursed such that at least one center shall be established within each existing coordinated care organization service area. Centers within each existing coordinated care organization service area shall be established and operational by October 1, 2021.]*

*[(b) Grantees must be able to provide or display an ability to provide the following services to any Oregon resident who requests it, in order to receive funding as an Addiction Recovery Center:]*

1        *[(i) 24/7 triage: Centers shall assess a client's need for immediate medical or other treatment shortly*  
 2 *upon the client's arrival to determine what acute care is needed and where it can be best provided.*  
 3 *Centers shall provide this service twenty-four hours a day, seven days a week, 365 days a year.]*

4        *[(ii) Health assessment: Centers shall conduct a comprehensive behavioral health needs assessment*  
 5 *for each client, including a substance use disorder screening by a certified alcohol and drug counselor*  
 6 *or other credentialed addiction treatment professional. The assessment shall prioritize the self-identified*  
 7 *needs of the client.]*

8        *[(iii) Individual intervention plan, intensive case management and connection to services: If, after*  
 9 *the completion of the assessment, the client indicates a desire to address some or all of the identified*  
 10 *needs, a case manager shall work with the client to design an individual intervention plan. The plan*  
 11 *must address the client's need for substance use disorder treatment, coexisting health problems, hous-*  
 12 *ing, employment and training, childcare and other services. Intensive case management requires, in the*  
 13 *least, that case managers have a sufficiently low staff-to-client ratio to provide daily support as needed*  
 14 *to connect clients to services and care needed to fulfill the individual intervention plan and have the*  
 15 *capacity to follow-up to ensure clients are accessing care and, if not, to reconnect clients to care as*  
 16 *necessary and as desired by clients.]*

17        *[(iv) Peer support: Each center shall offer ongoing peer counseling and support from triage and*  
 18 *assessment through implementation of individual intervention plans as well as provide peer outreach*  
 19 *workers to engage directly with marginalized community members who could potentially benefit from*  
 20 *the center's services.]*

21        *[(v) Outreach: Each center shall assess the need for, and provide, mobile or virtual outreach ser-*  
 22 *vices to reach clients who are unable to access the center.]*

23        *[(A) Notwithstanding subsection (2)(a) of this section, only one center within each coordinated care*  
 24 *organization service area is required to provide the triage assessments set forth in subsection (2)(b)(i)*  
 25 *of this section.]*

26        *[(c) All services provided at the centers must be evidence-informed, trauma-informed, culturally re-*  
 27 *sponsive, patient-centered, non-judgmental, and centered on principles of harm reduction. The goal of*  
 28 *the individual intervention plan and intensive case management shall be to address effectively the*  
 29 *client's substance use disorder and any other factors driving problematic behaviors without employing*  
 30 *coercion or shame or mandating abstinence.]*

31        *[(d) The centers shall be adequately staffed to address the needs of people with substance use dis-*  
 32 *order within their regions as determined by the Oversight and Accountability Council, but must in-*  
 33 *clude, at a minimum, at least one person qualified in each of the following categories:]*

34        *[Certified alcohol and drug counselor or other credentialed addiction treatment professional;]*

35        *[Intensive case manager; and,]*

36        *[(C) Peer support specialist.]*

37        *[(e) Each center shall provide timely verification on behalf of any client who has completed a health*  
 38 *assessment, as set forth in subsection (2)(b)(ii) of this section, if the client requests such verification to*  
 39 *comply with section 22 or section 23 (2) of this Act.]*

40        *[(3) Increasing Community Access to Care. The Oversight and Accountability Council shall provide*  
 41 *grants to existing agencies or organizations, whether government or community based, to increase ac-*  
 42 *cess to one or more of the following:]*

43        *[(a) Low barrier substance use disorder treatment that is evidence-informed, trauma-informed, cul-*  
 44 *turally responsive, patient-centered, and non-judgmental;]*

45        *[(b) Peer support and recovery services;]*

1       [(c) *Transitional, supportive, and permanent housing for persons with substance use disorder;*]

2       [(d) *Harm reduction interventions including, but not limited to, overdose prevention education, ac-*  
3 *cess to naloxone hydrochloride and sterile syringes, and stimulant-specific drug education and*  
4 *outreach.*]

5       [(4) *The council shall prioritize providing grants to community-based nonprofit organizations*  
6 *within each coordinated care organization service area. However, if within any such service area a*  
7 *community-based nonprofit organization does not apply for a grant or grants are not sought within that*  
8 *service area for which services are needed, then the council may request and fund grants to any com-*  
9 *munity care organization or county within that service area.*]

10       [(5) *Services provided by grantees, including services provided by Addiction Recovery Centers,*  
11 *shall be free of charge to the persons receiving the services. To the extent consistent with applicable*  
12 *law, grantees and service providers may seek and obtain reimbursement for services provided to any*  
13 *person from any insurer or entity providing insurance to that person.*]

14       **(1) The Oversight and Accountability Council shall oversee and approve grants and**  
15 **funding to implement Behavioral Health Resource Networks and increase access to commu-**  
16 **nity care, as set forth below. A Behavioral Health Resource Network is an entity or col-**  
17 **lection of entities that individually or jointly provide some or all of the services described in**  
18 **subsection (2)(d) of this section.**

19       **(2)(a) The Oversight and Accountability Council, in consultation with the Oregon Health**  
20 **Authority, shall provide grants and funding to agencies or organizations, whether govern-**  
21 **ment or community based, to establish Behavioral Health Resource Networks for the pur-**  
22 **poses of immediately screening the acute needs of people who use drugs and assessing and**  
23 **addressing any ongoing needs through ongoing case management, harm reduction, treat-**  
24 **ment, housing and linkage to other care and services. Recipients of grants or funding to**  
25 **provide substance use disorder treatment or services must be licensed, certified or creden-**  
26 **tialed by the state, including certification under ORS 743A.168 (7), or meet criteria prescribed**  
27 **by rule by the Oversight and Accountability Council under section 4, chapter 2, Oregon Laws**  
28 **2021 (Ballot Measure 110 (2020)).**

29       **(b) Grants and funding must be disbursed such that at least one network shall be estab-**  
30 **lished and operational within each county by October 1, 2021.**

31       **(c) Applicants for grants and funding may apply individually or jointly with other network**  
32 **participants.**

33       **(d) A network must have the capacity to provide the following services and any other**  
34 **services specified by the council by rule:**

35       **(A) Screening by certified addiction peer support or wellness specialists or other qualified**  
36 **persons designated by the council to determine a client's need for immediate medical or**  
37 **other treatment to determine what acute care is needed and where it can be best provided,**  
38 **identify other needs and link the client to other appropriate local or statewide services, in-**  
39 **cluding treatment for substance abuse and coexisting health problems, housing, employment,**  
40 **training and child care. Networks shall provide this service 24 hours a day, seven days a**  
41 **week, every calendar day of the year. Notwithstanding paragraph (b) of this subsection, only**  
42 **one grantee in each network within each county is required to provide the screenings de-**  
43 **scribed in this subparagraph.**

44       **(B) Comprehensive behavioral health needs assessment, including a substance use disor-**  
45 **der screening by a certified alcohol and drug counselor or other credentialed addiction**

1 treatment professional. The assessment shall prioritize the self-identified needs of a client.

2 (C) Individual intervention planning, case management and connection to services. If,  
3 after the completion of a screening, a client indicates a desire to address some or all of the  
4 identified needs, a case manager shall work with the client to design an individual inter-  
5 vention plan. The plan must address the client's need for substance use disorder treatment,  
6 coexisting health problems, housing, employment and training, child care and other services.

7 (D) Ongoing peer counseling and support from screening and assessment through imple-  
8 mentation of individual intervention plans as well as peer outreach workers to engage di-  
9 rectly with marginalized community members who could potentially benefit from the  
10 network's services.

11 (E) Assessment of the need for, and provision of, mobile or virtual outreach services to:

12 (i) Reach clients who are unable to access the network; and

13 (ii) Increase public awareness of network services.

14 (F) Harm reduction services and information and education about harm reduction ser-  
15 vices.

16 (G) Low-barrier substance use disorder treatment.

17 (H) Transitional and supportive housing for individuals with substance use disorders.

18 (e) All services provided through the networks must be evidence-informed, trauma-  
19 informed, culturally specific, linguistically responsive, patient-centered and nonjudgmental.  
20 The goal shall be to address effectively the client's substance use and any other social de-  
21 terminants of health.

22 (f) The networks must be adequately staffed to address the needs of people with sub-  
23 stance use disorders within their regions as prescribed by the council by rule, including, at  
24 a minimum, at least one person qualified by the Oregon Health Authority in each of the  
25 following categories:

26 (A) Certified alcohol and drug counselor or other credentialed addiction treatment pro-  
27 fessional;

28 (B) Case manager; and

29 (C) Certified addiction peer support or wellness specialist.

30 (g) Each network shall provide prompt verification on behalf of any client who has com-  
31 pleted a screening, as set forth in subsection (2)(d)(B) of this section, if the client requests  
32 such verification to comply with section 22, chapter 2, Oregon Laws 2021 (Ballot Measure 110  
33 (2020)), or section 45 of this 2021 Act to:

34 (A) The client; and

35 (B) The Oregon Health Authority, which shall forward the verification to the court in the  
36 manner prescribed by the Chief Justice of the Supreme Court.

37 (3) In addition to grants and funding provided to networks, the council shall provide  
38 grants and funding to other agencies or organizations, whether government or community  
39 based, and to service providers that are affiliated with the nine federally recognized tribes  
40 in this state to increase access to one or more of the following:

41 (a) Low-barrier substance use disorder treatment that is evidence-informed, trauma-  
42 informed, culturally specific, linguistically responsive, patient-centered and nonjudgmental;

43 (b) Peer support and recovery services;

44 (c) Transitional, supportive and permanent housing for persons with substance use dis-  
45 order; or

(d) Harm reduction interventions including, but not limited to, overdose prevention education, access to naloxone hydrochloride and sterile syringes and stimulant-specific drug education and outreach.

(4) In awarding grants within each geographic area, the council shall prioritize community-based organizations serving communities most impacted by laws enacted in the war on drugs initiative.

(5) The council shall require any government entity that applies for a grant to specify in the application details regarding subgrantees and how the government entity will fund culturally specific organizations and culturally specific services. A government entity receiving a grant must make an explicit commitment not to supplant or decrease any existing funding used to provide services funded by the grant.

(6) In determining grants and funding to be awarded, the council may consult the comprehensive addiction, prevention, treatment and recovery plan established by the Alcohol and Drug Commission under ORS 430.223 and the advice of any other group, agency, organization or individual that desires to provide advice to the council that is consistent with the terms of this section.

(7) Services provided by grantees, including services provided by a Behavioral Health Resource Network, shall be free of charge to the clients receiving the services. Grantees in each network shall seek reimbursement from insurance issuers, the medical assistance program or any other third party responsible for the cost of services provided to a client and grants and funding provided by the council or the authority under subsection (2) of this section may be used for copayments, deductibles or other out-of-pocket costs incurred by the client for the services.

(8) Subsection (7) of this section does not require the medical assistance program to reimburse the cost of services for which another third party is responsible in violation of 42 U.S.C. 1396a(25).

**SECTION 3.** Section 3, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

**Sec. 3. [*Oversight and Accountability Council*.]** (1)(a) The Director of the Oregon Health Authority shall establish an Oversight and Accountability Council for the purpose of determining how funds will be distributed to grant applicants and to oversee the implementation of the [*Centers*] **Behavioral Health Resource Networks** pursuant to section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**. The council shall be formed on or before February 1, 2021.

[(a)] (b) The council shall [*be comprised*] **consist** of qualified individuals with experience in substance use disorder treatment and other addiction services. The council shall consist of at least one member from each of the following categories only:

[(i)] (A) A representative of the Oregon Health Authority, Health Systems Division Behavioral Health Services **as a nonvoting member**;

[(ii)] (B) Three members of communities that have been disproportionately impacted by arrests, prosecution or sentencing for conduct that has been classified or reclassified as a Class E violation [*pursuant to section 11 to section 19.*];

[(iii)] (C) A physician specializing in addiction medicine;

[(iv)] (D) A licensed clinical social worker;

[(v)] (E) An evidence-based substance use disorder provider;

[(vi)] (F) A harm reduction services provider;

1 [(vii)] (G) A person specializing in housing services for people with substance use disorder or  
2 a diagnosed mental health condition;

3 [(viii)] (H) An academic researcher specializing in drug use or drug policy;

4 [(ix)] (I) At least two people who suffered or suffer from substance use disorder;

5 [(x)] (J) At least two recovery peers;

6 [(xi)] (K) A mental or behavioral health provider;

7 [(xii)] (L) A representative of a coordinated care organization; and[,]

8 [(xiii)] (M) A person who works for a [non-profit] **nonprofit** organization that advocates for  
9 persons who experience or have experienced substance use disorder.

10 (2) A quorum consists of [nine] **two-thirds of the members of the council, rounded up to the**  
11 **next odd number of members.**

12 (3) The term of office for a member of the council [shall be] **is** four years. Vacancies shall be  
13 appointed for the unexpired term.

14 (4)(a) To the extent permissible by law, a member of the council performing services for the  
15 council may receive compensation from [his or her] **the member's** employer for time spent per-  
16 forming services as a council member.

17 (b) If a member of the council is not compensated by [their] **the member's** employer as set forth  
18 in [subsection (4)(a) of this section] **paragraph (a) of this subsection**, that member shall be entitled  
19 to compensation and expenses as provided in ORS 292.495.

20 [(c) Nothing in this subsection (4) of this section excuses or exempts a member of the council from  
21 complying with any applicable provision of Oregon's ethics laws and regulations, including the pro-  
22 visions of ORS chapter 244.]

23 **(5) Members of the council are subject to and must comply with ORS 244.045 (4), 244.047,**  
24 **244.120 and 244.130.**

25 **SECTION 4.** Section 4, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended  
26 to read:

27 **Sec. 4. [Administration.]** (1)(a) On or before June 30, 2021, the Oversight and Accountability  
28 Council shall adopt rules that establish general criteria and requirements for the [Addiction Recov-  
29 ery Centers] **Behavioral Health Resource Networks** and the grants **and funding** required by sec-  
30 tion 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, **including rules requiring**  
31 **recipients of grants and funding to collect and report information necessary for the Secre-**  
32 **tary of State to conduct the financial and performance audits required by section 24, chapter**  
33 **2, Oregon Laws 2021 (Ballot Measure 110 (2020)).**

34 (b) The council shall from time to time adopt such rules, and amend and revise rules [it] **the**  
35 **council** has adopted, as [it] **the council** deems proper and necessary for the administration of [this  
36 Act] **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, and the performance of [its] **the**  
37 **council's** work.

38 (2) The council shall have and retain the authority to implement and oversee the [Addiction  
39 Recovery Centers created by] **Behavioral Health Resource Networks established under** section  
40 **2, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, and the grants [program created and  
41 required by] **and funding under** section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110**  
42 **(2020)).**

43 (3) The Oregon Health Authority[, Health Systems Division Behavioral Health Services] shall  
44 administer and provide all necessary support to ensure the implementation of [this Act] **chapter 2,**  
45 **Oregon Laws 2021 (Ballot Measure 110 (2020)).**

(4)(a) The [*Oregon Health Authority, Health Systems Division Behavioral Health Services*], **authority**, in consultation with the council, may enter into interagency agreements to ensure proper distribution of funds for the grants [*created and*] required by section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

(b) The [*Oregon Health Authority, Health Systems Division Behavioral Health Services*] **authority** shall encourage and take all reasonable measures to ensure that grant recipients cooperate, coordinate and act jointly with one another to offer the services described in section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

(c) **The authority shall post to the authority's website, at the time a grant or funding is awarded:**

**(A) The name of the recipient of the grant or funding;**

**(B) The names of any subgrantees or subcontractors of the recipient of the grant or funding; and**

**(C) The amount of the grant or funding awarded.**

(5) The [*Oregon Health Authority, Health Systems Division Behavioral Health Services*] **authority** shall provide requested technical, logistical and other support to the council to assist the council with [*its*] **the council's** duties and obligations.

## FUNDING

**SECTION 5.** Section 5, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

**Sec. 5.** (1) The Drug Treatment and Recovery Services Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the **Drug Treatment and Recovery Services** Fund shall be credited to the fund.

(2) The Drug Treatment and Recovery Services Fund shall consist of:

(a) Moneys deposited into the fund pursuant to section 6, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**;

(b) Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;

(c) Moneys allocated from the Oregon Marijuana Account, pursuant to ORS 475B.759 (7); [*and*],

**(d) Moneys allocated from the Criminal Fine Account pursuant to ORS 137.300 (4); and**

**[(d)] (e) All other moneys deposited [*in*] into the fund from any source.**

(3) Moneys in the fund shall be continuously appropriated to the Oregon Health Authority for the purposes set forth in section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

**[(4) Unexpended moneys in the fund may not lapse and shall be carried forward and may be used without regard to fiscal year or biennium.]**

**[(5)(a)] (4)(a)** Pursuant to subsection (2)(b) of this section, the Legislative Assembly shall appropriate or transfer to the fund an amount sufficient to fully fund the grants program required by section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

(b) The total amount deposited and transferred into the fund shall not be less than \$57 million for the first year [*this Act*] **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, is in effect.

(c) In each subsequent year, [*that*] **the minimum transfer** amount set forth in **paragraph (b) of this** subsection [*(5)(b) of this section*] shall be increased by not less than **the sum of:**

**[(i)] (A) \$57 million multiplied by** the percentage [*(if any)*], **if any**, by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending [*December*]



1 **August** 31 of the prior calendar year exceeds the monthly index for the fourth quarter of the cal-  
 2 endar year 2020; and[.]

3 [(ii)] **(B)** *[An amount not less than the increase]* **The annual increase, if any,** in moneys dis-  
 4 tributed pursuant to ORS 475B.759 (7).

5 **SECTION 6.** Section 6, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended  
 6 to read:

7 **Sec. 6.** (1) The Department of Revenue shall credit and transfer or cause to be credited and  
 8 transferred to the Drug Treatment and Recovery Services Fund the savings to the State of Oregon  
 9 from the implementation of *[this Act]* **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**,  
 10 as calculated in section 7, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

11 (2) If the savings calculated for any subsequent biennium under section 7 (1), **chapter 2, Oregon**  
 12 **Laws 2021 (Ballot Measure 110 (2020))**, is less than any prior biennium, the amount credited and  
 13 transferred to the Drug Treatment and Recovery Services Fund shall be the highest amount calcu-  
 14 lated for any previous biennium.

15 (3) The savings as calculated in section 7, **chapter 2, Oregon Laws 2021 (Ballot Measure 110**  
 16 **(2020))**, shall be transferred on or before the end of the fiscal year in which the calculation is  
 17 completed.

18 **SECTION 7.** Section 7, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended  
 19 to read:

20 **Sec. 7.** (1)(a) Within 180 days of *[the end of first biennium in which this Act becomes effective,*  
 21 *and within 180 days of the end of each subsequent biennium]* **June 30, 2020, and every June 30**  
 22 **thereafter**, the *[Office of Economic Analysis]* **Oregon Department of Administrative Services**  
 23 shall calculate the savings to the State of Oregon resulting from the *[sentence reductions set forth*  
 24 *in section 11 to section 20]* **reductions to Class E violations for offenses described in ORS**  
 25 **475.752, 475.814, 475.824, 475.834, 475.854, 475.874, 475.884 and 475.894**, including any savings re-  
 26 sulting from reductions in arrests, incarceration and supervision.

27 (b) The savings shall be calculated based on a comparison of the most recent biennium con-  
 28 cluded at the time the calculation is made and the biennium *[immediately preceding the biennium in*  
 29 *which this Act became effective]* **beginning July 1, 2019.**

30 (2) In making the calculations set forth in this section, the *[Office of Economic Analysis]* **de-**  
 31 **partment** shall use actual data. The *[Office of Economic Analysis]* **department** may use best  
 32 available estimates *[where]* **when** actual data is unavailable.

33 **SECTION 8.** Section 8, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended  
 34 to read:

35 **Sec. 8.** Moneys transferred to the Drug Treatment and Recovery Services Fund and distributed  
 36 pursuant to section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, shall, to the  
 37 maximum extent consistent with law, be in addition to and not in replacement of any existing allo-  
 38 cations or appropriations for the purposes of providing substance use disorder treatment, peer sup-  
 39 port and recovery services, transitional, supportive and permanent housing for persons with  
 40 substance use disorders, harm reduction interventions[,] and for establishing *[Addiction Recovery*  
 41 *Centers]* **Behavioral Health Resource Networks.**

42 **SECTION 9.** Section 9, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended  
 43 to read:

44 **Sec. 9.** *[Account Allocation.]* *[(1)]* The Oregon Health Authority shall cause the moneys in the  
 45 Drug Treatment and Recovery Services Fund to be distributed as follows:

1        [(a)] (1)(a) An amount necessary for administration of [section 2 to section 4] **sections 2 to 4,**  
 2        **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, not to exceed [4%] **four percent** of  
 3        the moneys deposited into the fund in any biennium.

4        **(b) The amounts necessary for administration described in paragraph (a) of this sub-**  
 5        **section do not include expenditures to establish and maintain the telephone hotline described**  
 6        **in section 23 (1), chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)).**

7        [(b)] (2) After the distribution set forth in subsection [(1)(a)] (1) of this section, the remaining  
 8        moneys in the fund shall be distributed to the grants program as set forth in section 2, **chapter 2,**  
 9        **Oregon Laws 2021 (Ballot Measure 110 (2020)).**

10        **SECTION 10.** ORS 475B.759, as amended by section 10, chapter 2, Oregon Laws 2021 (Ballot  
 11        Measure 110 (2020)), is amended to read:

12        475B.759. (1) There is established the Oregon Marijuana Account, separate and distinct from the  
 13        General Fund.

14        (2) The account [*shall consist*] **consists** of moneys transferred to the account under ORS  
 15        475B.760.

16        (3)(a) The Department of Revenue shall certify quarterly the amount of moneys available in the  
 17        Oregon Marijuana Account.

18        (b) Subject to subsection (4) of this section, and after making the transfer of moneys required  
 19        by subsection (7) of this section, the department shall transfer quarterly 20 percent of the moneys  
 20        in the Oregon Marijuana Account as follows:

21        (A) Ten percent of the moneys in the account must be transferred to the cities of this state in  
 22        the following shares:

23        (i) Seventy-five percent of the 10 percent must be transferred in shares that reflect the popu-  
 24        lation of each city of this state that is not exempt from this paragraph pursuant to subsection (4)(a)  
 25        of this section compared to the population of all cities of this state that are not exempt from this  
 26        paragraph pursuant to subsection (4)(a) of this section, as determined by Portland State University  
 27        under ORS 190.510 to 190.610, on the date immediately preceding the date of the transfer; and

28        (ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number  
 29        of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day  
 30        of the calendar quarter preceding the date of the transfer for premises located in each city compared  
 31        to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the  
 32        last business day of that calendar quarter for all premises in this state located in cities; and

33        (B) Ten percent of the moneys in the account must be transferred to counties in the following  
 34        shares:

35        (i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commer-  
 36        cially available area of all grow canopies associated with marijuana producer licenses held pursuant  
 37        to ORS 475B.070 on the last business day of the calendar quarter preceding the date of the transfer  
 38        for all premises located in each county compared to the total commercially available area of all  
 39        grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the  
 40        last business day of that calendar quarter for all premises located in this state; and

41        (ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of li-  
 42        censes held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of the cal-  
 43        endar quarter preceding the date of the transfer for premises located in each county compared to  
 44        the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business  
 45        day of that calendar quarter for all premises in this state.

(c) After making the transfer of moneys required by subsection (7) of this section, [eighty] 80 percent of the remaining moneys in the Oregon Marijuana Account must be used as follows:

(A) Forty percent of the moneys in the account must be used solely for purposes for which moneys in the State School Fund established under ORS 327.008 may be used;

(B) Twenty percent of the moneys in the account must be used solely for mental health treatment or for alcohol and drug abuse prevention, early intervention and treatment;

(C) Fifteen percent of the moneys in the account must be used solely for purposes for which moneys in the State Police Account established under ORS 181A.020 may be used; and

(D) Five percent of the moneys in the account must be used solely for purposes related to alcohol and drug abuse prevention, early intervention and treatment services.

(4)(a) A city that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection (3)(b)(A) of this section.

(b) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under subsection (3)(b)(B)(i) of this section.

(c) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection (3)(b)(B)(ii) of this section.

(5)(a) A city or county that is ineligible under subsection (4) of this section to receive a transfer of moneys from the Oregon Marijuana Account during a given quarter but has received a transfer of moneys for that quarter shall return the amount transferred to the Department of Revenue, with interest as described under paragraph (f) of this subsection. An ineligible city or county may voluntarily transfer the moneys to the Department of Revenue immediately upon receipt of the ineligible transfer.

(b) If the Director of the Oregon Department of Administrative Services determines that a city or county received a transfer of moneys under subsection (3)(b) of this section but was ineligible to receive that transfer under subsection (4) of this section, the director shall provide notice to the ineligible city or county and order the city or county to return the amount received to the Department of Revenue, with interest as described under paragraph (f) of this subsection. A city or county may appeal the order within 30 days of the date of the order under the procedures for a contested case under ORS chapter 183.

(c) As soon as the order under paragraph (b) of this subsection becomes final, the director shall notify the Department of Revenue and the ineligible city or county. Upon notification, the Department of Revenue immediately shall proceed to collect the amount stated in the notice.

(d) The Department of Revenue shall have the benefit of all laws of the state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in the notice under paragraph (c) of this subsection. An assessment of tax is not necessary and the collection described in this subsection is not precluded by any statute of limitations.

(e) If a city or county is subject to an order to return moneys from an ineligible transfer, the city or county shall be denied any further relief in connection with the ineligible transfer on or after the date that the order becomes final.

(f) Interest under this section shall accrue at the rate established in ORS 305.220 beginning on the date the ineligible transfer was made.

(g) Both the moneys and the interest collected from or returned by an ineligible city or county

shall be redistributed to the cities or counties that were eligible to receive a transfer under subsection (3)(b) of this section on the date the ineligible transfer was made.

(6)(a) Not later than July 1 of each year, each city and county in this state shall certify with the Oregon Department of Administrative Services whether the city or county has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concurrently with the certifications under ORS 221.770, in a form and manner prescribed by the Oregon Department of Administrative Services.

(b) If a city fails to comply with this subsection, the city is not eligible to receive transfers of moneys under subsection (3)(b)(A) of this section. If a county fails to comply with this subsection, the county is not eligible to receive transfers of moneys under subsection (3)(b)(B) of this section.

(c) A city or county that repeals an ordinance as provided in ORS 475B.496 shall file an updated certification with the Oregon Department of Administrative Services in a form and manner prescribed by the department, noting the effective date of the change. A city or county that repeals an ordinance as provided in ORS 475B.496 is eligible to receive quarterly transfers of moneys under this section for quarters where the repeal is effective for the entire quarter and the updated certification was filed at least 30 days before the date of transfer.

(7) Before making the transfer of moneys required by subsection (3) of this section, the department shall transfer quarterly to the Drug Treatment and Recovery Services Fund all moneys in the Oregon Marijuana Account in excess of \$11,250,000.

## VIOLATION PROCEDURES

**SECTION 11.** ORS 153.012, as amended by section 18, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

153.012. Violations are classified for the purpose of sentencing into the following categories:

- (1) Class A violations[;].
- (2) Class B violations[;].
- (3) Class C violations[;].
- (4) Class D violations[;].
- (5) Class E violations[;].
- (6) Unclassified violations as described in ORS 153.015[; and].
- (7) Specific fine violations as described in ORS 153.015.

**SECTION 12.** ORS 153.018, as amended by section 19, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

153.018. (1) The penalty for committing a violation is a fine. The law creating a violation may impose other penalties in addition to a fine but may not impose a term of imprisonment.

(2) Except as otherwise provided by law, the maximum fine for a violation committed by an individual is:

- (a) \$2,000 for a Class A violation.
- (b) \$1,000 for a Class B violation.
- (c) \$500 for a Class C violation.
- (d) \$250 for a Class D violation.
- (e) \$100[ or, in lieu of the fine, a completed health assessment as specified in section 2 (2)(b)(ii) or section 23 (2),] for a Class E violation.

(f) \$2,000 for a specific fine violation, or the maximum amount otherwise established by law for the specific fine violation.

(3) If a special corporate fine is specified in the law creating the violation, the sentence to pay a fine shall be governed by the law creating the violation. Except as otherwise provided by law, if a special corporate fine is not specified in the law creating the violation, the maximum fine for a violation committed by a corporation is:

(a) \$4,000 for a Class A violation.

(b) \$2,000 for a Class B violation.

(c) \$1,000 for a Class C violation.

(d) \$500 for a Class D violation.

**SECTION 13.** ORS 153.019 is amended to read:

153.019. (1) Except as provided in ORS 153.020 **and sections 22 and 23, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, the presumptive fines for violations are:

(a) \$440 for a Class A violation.

(b) \$265 for a Class B violation.

(c) \$165 for a Class C violation.

(d) \$115 for a Class D violation.

**(e) \$100 for a Class E violation.**

(2) The presumptive fine for a specific fine violation is:

(a) The amount specified by statute as the presumptive fine for the violation; or

(b) An amount equal to the greater of 20 percent of the maximum fine prescribed for the violation, or the minimum fine prescribed by statute for the violation.

(3) Any surcharge imposed under ORS 1.188 shall be added to and made a part of the presumptive fine.

**SECTION 14.** ORS 153.021 is amended to read:

153.021. (1) Except as otherwise provided by law, a court may not defer, waive, suspend or otherwise reduce the fine for a violation that is subject to the presumptive fines established by ORS 153.019 (1) or 153.020 to an amount that is less than:

(a) \$225 for a Class A violation.

(b) \$135 for a Class B violation.

(c) \$85 for a Class C violation.

(d) \$65 for a Class D violation.

**(e) \$45 for a Class E violation.**

(2) Except as otherwise provided by law, a court may not defer, waive, suspend or otherwise reduce the fine for a specific fine violation to an amount that is less than 20 percent of the presumptive fine for the violation.

(3) This section does not affect the manner in which a court imposes or reduces monetary obligations other than fines.

(4) The Department of Revenue or Secretary of State may audit any court to determine whether the court is complying with the requirements of this section. In addition, the Department of Revenue or Secretary of State may audit any court to determine whether the court is complying with the requirements of ORS 137.145 to 137.159 and 153.640 to 153.680. The Department of Revenue or Secretary of State may file an action under ORS 34.105 to 34.240 to enforce the requirements of this section and of ORS 137.145 to 137.159 and 153.640 to 153.680.

**SECTION 15.** ORS 153.064 is amended to read:

153.064. (1) Except as provided in subsection (2) of this section, a warrant for arrest may be issued against a person who fails to make a first appearance on a citation for a violation, or fails to appear at any other subsequent time set for trial or other appearance, only if the person is charged with failure to appear in a violation proceeding under ORS 153.992.

(2) If a person fails to make a first appearance on a citation for a violation **other than a Class E violation**, or fails to appear at any other subsequent time set for trial or other appearance **on a violation other than a Class E violation**, the court may issue an order that requires the defendant to appear and show cause why the defendant should not be held in contempt. The show cause order may be mailed to the defendant by certified mail, return receipt requested. If service cannot be accomplished by mail, the defendant must be personally served. If the defendant is served and fails to appear at the time specified in the show cause order, the court may issue an arrest warrant for the defendant for the purpose of bringing the defendant before the court.

**SECTION 16.** ORS 153.992 is amended to read:

153.992. (1) A person commits the offense of failure to appear in a violation proceeding if the person has been served with a [violation] citation issued under this chapter **for a violation other than a Class E violation** and the person knowingly fails to do any of the following:

- (a) Make a first appearance in the manner required by ORS 153.061 within the time allowed.
- (b) Make appearance at the time set for trial in the violation proceeding.
- (c) Appear at any other time required by the court or by law.

(2) Failure to appear on a violation citation is a Class A misdemeanor.

**SECTION 17.** ORS 670.280, as amended by section 21, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

670.280. (1) As used in this section:

- (a) "License" includes a registration, certification or permit.
- (b) "Licensee" includes a registrant or a holder of a certification or permit.

(2) Except as provided in ORS 342.143 (3) or 342.175 (3), a licensing board, commission or agency may not deny, suspend or revoke an occupational or professional license solely for the reason that the applicant or licensee has been convicted of a crime, but it may consider the relationship of the facts which support the conviction and all intervening circumstances to the specific occupational or professional standards in determining the fitness of the person to receive or hold the license. There is a rebuttable presumption as to each individual applicant or licensee that an existing or prior conviction for conduct that has been classified or reclassified as a Class E violation [pursuant to section 11 to section 19] does not make an applicant for an occupational or professional license or a licensee with an occupational or professional license unfit to receive or hold the license.

(3) Except as provided in ORS 342.143 (3) and 342.175 (3), a licensing board, commission or agency may deny an occupational or professional license or impose discipline on a licensee based on conduct that is not undertaken directly in the course of the licensed activity, but that is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required. In determining whether the conduct is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required, the licensing board, commission or agency shall consider the relationship of the facts with respect to the conduct and all intervening circumstances to the specific occupational or professional standards. There is a rebuttable presumption as to each individual applicant or licensee that an existing or prior conviction for conduct that has been classified or reclassified as a Class E violation [pursuant to section 11 to section 19] is not related to the fitness and ability of the applicant or

licensee to engage in the activity for which the license is required.

**SECTION 18.** Section 19 of this 2021 Act is added to and made a part of ORS chapter 153.

**SECTION 19.** (1) An enforcement officer issuing a citation for a Class E violation shall provide the person receiving the citation with information concerning how the person may complete a screening, as specified in section 2 (2)(d)(B), chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), in lieu of paying a fine.

(2) The requirement described in subsection (1) of this section may be satisfied by providing the person with the number for the telephone hotline established under section 23, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)).

**SECTION 20.** Section 22, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

**Sec. 22.** *[Any person subject to the penalty set forth in ORS 153.018 (2)(e) for a violation that has been classified or reclassified as a Class E violation pursuant to section 11 to section 19, shall be fined up to \$100, but in lieu of the fine, may complete a health assessment, as set forth in section 2 (2)(b)(ii), at an Addiction Recovery Center. Upon verification that the person has received a health assessment at an Addiction Recovery Center within 45 days of when the person receives a citation for a violation subject to the penalty set forth in ORS 153.018 (2)(e), the fine shall be waived. Failure to pay the fine shall not be a basis for further penalties or for a term of incarceration.]*

(1) Notwithstanding ORS 153.018, 153.019 and 153.021, and subject to subsection (2) of this section, a person subject to the penalty for a Class E violation may, in lieu of the fine, complete a screening, as set forth in section 2 (2)(d)(B), chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), or any other equivalent or more intensive treatment contact, within 45 days of when the person receives the citation for the Class E violation.

(2) Upon receiving verification that the person has obtained a screening or other treatment contact through a Behavioral Health Resource Network, including the telephone hotline described in section 23 (1), chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), within the time period described in subsection (1) of this section, the court shall dismiss the citation.

(3) Failure to pay a fine on a Class E violation may not be a basis for further penalties or for a term of incarceration.

## OVERSIGHT AND ADMINISTRATION

**SECTION 21.** Section 23, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

**Sec. 23.** *[Implementation. (1) Not later than February 1, 2021, the Oregon Health Authority, Health Systems Division Behavioral Health Services shall establish a statewide temporary telephone Addiction Recovery Center. The temporary telephone Addiction Recovery Center shall be staffed twenty-four hours a day, seven days a week, 365 days a year. The temporary telephone Addiction Recovery Center shall provide the services set forth in section 2 (2)(b)(i)-(iii) and the verification set forth in section 2 (2)(e).]*

*[(2) Until such time as an Addiction Recovery Center is established in the coordinated care organization service area where a person subject to the penalty set forth in ORS 153.018 (2)(e) for a violation that has been classified or reclassified as a Class E violation pursuant to section 11 to section 19 resides, the person shall be fined up to \$100, but in lieu of the fine may complete a health assessment, as set forth in section 2 (2)(b)(ii), through the temporary telephone Addiction Recovery Center.]*

Upon verification that the person has received a health assessment through the temporary telephone Addiction Recovery Center within 45 days of when the person receives a citation for a violation subject to the penalty set forth in ORS 153.018 (2)(e), the fine shall be waived. Failure to pay the fine shall not be a basis for further penalties or for a term of incarceration.]

[(3) When an Addiction Recovery Center is established in each coordinated care organization service area, and not later than October 1, 2021, the temporary telephone Addiction Recovery Center shall be terminated.]

**(1) Not later than February 1, 2021, the Oregon Health Authority shall establish a Behavioral Health Resource Network statewide telephone hotline to:**

**(a) Provide screenings under section 2 (2)(d), chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), to any resident in this state by certified addiction peer support or wellness specialists, as defined by the authority by rule, or other qualified persons designated by the Oversight and Accountability Council;**

**(b) Assess a caller's need for immediate medical care or other treatment and determine what acute care is needed and where it can be provided;**

**(c) Identify other needs of the caller; and**

**(d) Link the caller to other appropriate local or statewide services, including treatment for substance abuse and other coexisting health problems, housing, employment, training and child care.**

**(2) The telephone hotline shall be staffed 24 hours a day, seven days a week, every calendar day of the year. Following a screening, at the request of a caller, the telephone hotline shall promptly provide the verification set forth in section 2 (2)(g), chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)).**

**SECTION 22.** Section 24, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

**Sec. 24. [Audits.]** (1) No later than December 31, 2022, and at least once every two years thereafter, the Oregon Secretary of State, Audits Division shall conduct financial and performance audits regarding the uses of the Drug Treatment and Recovery Services Fund and the effectiveness of the fund in achieving the purposes of the fund and the policy objectives of this Act. The audit shall include:]

[(a) Data on grant programs, including:]

[(i) A list of organizations and agencies receiving moneys from the fund;]

[(ii) The amount each organization and agency received from the fund;]

[(iii) The total number of organizations and agencies that applied for moneys from the fund;]

[(iv) The moneys that remained in the fund after funds were disbursed;]

[(v) The moneys used to administer the programs selected by the fund;]

[(vi) The effectiveness of the grants in increasing access to substance use disorder treatment, peer support and recovery services, harm reduction interventions as well as housing placement, and any other relevant outcome measures;]

[(b) Data on Addiction Recovery Centers, including:]

[(i) The outcomes of each center, including, but not limited to, the number of clients with substance use disorder served by each center, the average duration of client participation, and client outcomes, including rates of recidivism, substance use disorder treatment completion, ability to obtain housing, employment, and legitimate income;]

[(ii) The number of people seeking assistance from the center who are denied or not connected to substance use disorder treatment and other services, and the reasons for such denials;]



1        *[(iii) The average wait time it takes for people at the center to be able to fulfill their individual*  
 2 *intervention plan and the reason for any delays, such as waiting lists at referred services;]*

3        *[(iv) The total amount of money disbursed to each center.]*

4        *[(c) Data on implementation, including, the number of citations for Class E violations issued and*  
 5 *the race of the person receiving a citation for a Class E violation;]*

6        *[(2) The audits set forth in subsection (a) of this section shall be conducted pursuant to the pro-*  
 7 *visions of Oregon Revised Statutes Chapter 297 (and any subsequent modifications or amendments to*  
 8 *those statutes), except to the extent any provision of chapter 297 conflicts with any provision of this*  
 9 *Act , in which case the provisions of this Act shall control.]*

10       *[(3) The Audits Division shall monitor and report annually on agency progress in implementing*  
 11 *recommendations made in the audits. The Audits Division shall follow up on recommendations as part*  
 12 *of recurring audit work or as an activity separate from other audit activity. When following up on*  
 13 *recommendations, the Audits Division may request from the appropriate agency evidence of implemen-*  
 14 *tation.]*

15       **(1) The Division of Audits of the office of the Secretary of State shall conduct perform-**  
 16 **ance audits and financial reviews as provided in this section, regarding the uses of the Drug**  
 17 **Treatment and Recovery Services Fund and the effectiveness of the fund in achieving the**  
 18 **purposes of the fund and the policy objectives of section 1, chapter 2, Oregon Laws 2021**  
 19 **(Ballot Measure 110 (2020)). Recipients of grants or funds under section 2, chapter 2, Oregon**  
 20 **Laws 2021 (Ballot Measure 110 (2020)), shall keep accurate books, records and accounts that**  
 21 **are subject to inspection and audit by the division.**

22       **(2) No later than two years after the completion of an audit or financial review, the di-**  
 23 **vision shall monitor and report on the progress in implementing any recommendations made**  
 24 **in the audit or financial review. The division shall follow up on recommendations as part of**  
 25 **recurring audit work or as an activity separate from other audit activity. When following**  
 26 **up on recommendations, the division may request from the appropriate agency evidence of**  
 27 **implementation.**

28       **(3) The audits set forth in this section shall be conducted pursuant to the provisions of**  
 29 **ORS chapter 297, except to the extent any provision of ORS chapter 297 conflicts with any**  
 30 **provision of sections 1 to 9, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), in which**  
 31 **case the provisions of sections 1 to 9, chapter 2, Oregon Laws 2021 (Ballot Measure 110**  
 32 **(2020)), shall control.**

33       **(4) No later than December 31, 2023, the division shall perform a:**

34       **(a) Real-time audit, as prescribed by the division, which shall include an assessment of**  
 35 **the relationship between the Oversight and Accountability Council and the Oregon Health**  
 36 **Authority, the relationship between the council and recipients of grants or funding and the**  
 37 **structural integrity of sections 1 to 9, chapter 2, Oregon Laws 2021 (Ballot Measure 110**  
 38 **(2020)), including but not limited to assessing:**

39       **(A) Whether the organizational structure of the council contains conflicts or problems.**

40       **(B) Whether the rules adopted by the council are clear and functioning properly.**

41       **(C) Whether the council has sufficient authority and independence to achieve the**  
 42 **council's mission.**

43       **(D) Whether the authority is fulfilling authority's duties under sections 3, 4, 5, 9 and 23,**  
 44 **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)).**

45       **(E) Whether there are conflicts of interest in the process of awarding grants or funding.**

(F) Whether there are opportunities to expand collaboration between the council and state agencies.

(G) Whether barriers exist in data collection and evaluation mechanisms.

(H) Who is providing the data.

(I) Other areas identified by the division.

(b) Financial review, which shall include an assessment of the following:

(A) The functioning of the grants and funding systems between the council, the authority and recipients of grants or funding, including by gathering information on who is receiving what grants and funding, the process of applying for the grants and funding and whether that process is conducive to obtaining qualified applicants and applicants from communities of color.

(B) Whether grants and funding are going to organizations that are culturally responsive and linguistically specific, including an assessment of:

(i) The barriers that exist for grant and funding applicants who are Black, Indigenous or People of Color.

(ii) The applicants that were denied and why.

(iii) Whether grants and other funding are being disbursed based on the priorities specified in section 2, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)).

(iv) For government entities receiving grants or funding under section 2, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), the government entities' subgrantees and whether the governmental entity supplanted or decreased any local funding dedicated to the same services after receiving grants or funds under section 2, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)).

(v) Whether the authority has stayed within its administrative spending cap.

(vi) What proportion of grants or funds received by grantees and others under section 2, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), was devoted to administrative costs.

(C) The organizations and agencies receiving grants or funding under section 2, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), and:

(i) Which of the organizations and agencies are Behavioral Health Resource Network entities.

(ii) The amount each organization and agency received.

(iii) The total number of organizations and agencies that applied for grants or funding.

(iv) The amount of moneys from the fund that were used to administer the programs selected by the council.

(v) The moneys that remained in the Drug Treatment and Recovery Services Fund after grants and funding were disbursed.

(vi) A performance assessment of each grant or funding recipient.

(D) Other areas identified by the division.

(5) No later than December 31, 2024, the division shall conduct a performance audit, which must include an assessment of the following:

(a) All relevant data regarding the implementation of sections 22 and 23, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), including demographic information on individuals who receive citations subject to sections 22 and 23, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), and whether the citations resulted in connecting the individuals

with treatment.

(b) The functioning of:

(A) Law enforcement and the courts in relation to Class E violation citations;

(B) The telephone hotline operated by the authority; and

(C) Entities providing verification of screenings under section 2, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)).

(c) Disparities shown by demographic data and whether the citation data reveals a disproportionate use of citations in communities most impacted by the war on drugs.

(d) Whether sections 2, 22 and 23, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), reduce the involvement in the criminal justice system of individuals with drug addiction.

(e) Outcomes for individuals receiving treatment and other social services under section 2, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), including, but not limited to, the following:

(A) Whether access to care increased since December 3, 2020, and, if data is available, whether, since December 3, 2020:

(i) The number of drug and alcohol treatment service providers increased.

(ii) The number of culturally specific providers increased.

(iii) Overdose rates have decreased.

(iv) Access to harm reduction services has increased.

(v) More individuals are accessing treatment than they were before December 3, 2020.

(vi) Access to housing for individuals with substance use disorder has increased.

(B) Data on Behavioral Health Resource Networks and recipients of grants and funding under section 2, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), including:

(i) The outcomes of each network or recipient, including but not limited to the number of clients with substance use disorder receiving services from each network or recipient, the average duration of client participation and client outcomes.

(ii) The number of individuals seeking assistance from the network or recipients who are denied or not connected to substance use disorder treatment and other services, and the reasons for the denials.

(iii) The average time it takes for clients to access services and fulfill their individual intervention plan and the reason for any delays, such as waiting lists at referred services.

(iv) Whether average times to access services to which clients are referred, such as housing or medically assisted treatment, has decreased over time since December 3, 2020.

(v) Demographic data on clients served by Behavioral Health Resource Networks, including self-reported demographic data on race, ethnicity, gender and age.

(6) After the initial audit and financial review under subsection (4) of this section, the division shall conduct periodic performance audits and financial reviews pursuant to the division's annual audit plan and taking into consideration the risks of the program.

## STATEMENT OF ECONOMIC INTEREST

**SECTION 23.** ORS 244.050 is amended to read:

244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics Commission a verified statement of economic interest as required under this

chapter:

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

(b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

(d) The Deputy Attorney General.

(e) The Deputy Secretary of State.

(f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Legislative Policy and Research Director, the Secretary of the Senate, the Chief Clerk of the House of Representatives and the Legislative Equity Officer.

(g) The president and vice presidents, or their administrative equivalents, in each public university listed in ORS 352.002.

(h) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of Department of Environmental Quality.

(F) Director of Oregon Department of Administrative Services.

(G) State Fish and Wildlife Director.

(H) State Forester.

(I) State Geologist.

(J) Director of Human Services.

(K) Director of the Department of Consumer and Business Services.

(L) Director of the Department of State Lands.

(M) State Librarian.

(N) Administrator of Oregon Liquor Control Commission.

(O) Superintendent of State Police.

(P) Director of the Public Employees Retirement System.

(Q) Director of Department of Revenue.

(R) Director of Transportation.

(S) Public Utility Commissioner.

(T) Director of Veterans' Affairs.

(U) Executive director of Oregon Government Ethics Commission.

(V) Director of the State Department of Energy.

(W) Director and each assistant director of the Oregon State Lottery.

(X) Director of the Department of Corrections.

(Y) Director of the Oregon Department of Aviation.

(Z) Executive director of the Oregon Criminal Justice Commission.

(AA) Director of the Oregon Business Development Department.

(BB) Director of the Office of Emergency Management.

(CC) Director of the Employment Department.

(DD) Chief of staff for the Governor.

(EE) Director of the Housing and Community Services Department.

- 1 (FF) State Court Administrator.
- 2 (GG) Director of the Department of Land Conservation and Development.
- 3 (HH) Board chairperson of the Land Use Board of Appeals.
- 4 (II) State Marine Director.
- 5 (JJ) Executive director of the Oregon Racing Commission.
- 6 (KK) State Parks and Recreation Director.
- 7 (LL) Public defense services executive director.
- 8 (MM) Chairperson of the Public Employees' Benefit Board.
- 9 (NN) Director of the Department of Public Safety Standards and Training.
- 10 (OO) Executive director of the Higher Education Coordinating Commission.
- 11 (PP) Executive director of the Oregon Watershed Enhancement Board.
- 12 (QQ) Director of the Oregon Youth Authority.
- 13 (RR) Director of the Oregon Health Authority.
- 14 (SS) Deputy Superintendent of Public Instruction.
- 15 (i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within
- 16 the Governor's office.
- 17 (j) Every elected city or county official.
- 18 (k) Every member of a city or county planning, zoning or development commission.
- 19 (L) The chief executive officer of a city or county who performs the duties of manager or prin-
- 20 cipal administrator of the city or county.
- 21 (m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 22 (n) Every member of a governing body of a metropolitan service district and the auditor and
- 23 executive officer thereof.
- 24 (o) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 25 (p) The chief administrative officer and the financial officer of each common and union high
- 26 school district, education service district and community college district.
- 27 (q) Every member of the following state boards, [and] commissions **and councils**:
- 28 (A) Governing board of the State Department of Geology and Mineral Industries.
- 29 (B) Oregon Business Development Commission.
- 30 (C) State Board of Education.
- 31 (D) Environmental Quality Commission.
- 32 (E) Fish and Wildlife Commission of the State of Oregon.
- 33 (F) State Board of Forestry.
- 34 (G) Oregon Government Ethics Commission.
- 35 (H) Oregon Health Policy Board.
- 36 (I) Oregon Investment Council.
- 37 (J) Land Conservation and Development Commission.
- 38 (K) Oregon Liquor Control Commission.
- 39 (L) Oregon Short Term Fund Board.
- 40 (M) State Marine Board.
- 41 (N) Mass transit district boards.
- 42 (O) Energy Facility Siting Council.
- 43 (P) Board of Commissioners of the Port of Portland.
- 44 (Q) Employment Relations Board.
- 45 (R) Public Employees Retirement Board.

(S) Oregon Racing Commission.

(T) Oregon Transportation Commission.

(U) Water Resources Commission.

(V) Workers' Compensation Board.

(W) Oregon Facilities Authority.

(X) Oregon State Lottery Commission.

(Y) Pacific Northwest Electric Power and Conservation Planning Council.

(Z) Columbia River Gorge Commission.

(AA) Oregon Health and Science University Board of Directors.

(BB) Capitol Planning Commission.

(CC) Higher Education Coordinating Commission.

(DD) Oregon Growth Board.

(EE) Early Learning Council.

**(FF) The Oversight and Accountability Council.**

(r) The following officers of the State Treasurer:

(A) Deputy State Treasurer.

(B) Chief of staff for the office of the State Treasurer.

(C) Director of the Investment Division.

(s) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725 or 777.915 to 777.953.

(t) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

(u) Every member of a governing board of a public university listed in ORS 352.002.

(v) Every member of the board of directors of an authority created under ORS 465.600 to 465.621.

(2) By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the Oregon Government Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(3) By April 15 next after the filing deadline for the primary election, each candidate described in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(4) Not later than the 40th day before the date of the statewide general election, each candidate described in subsection (1) of this section who will appear on the statewide general election ballot and who was not required to file a statement of economic interest under subsections (1) to (3) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(5) Subsections (1) to (3) of this section apply only to persons who are incumbent, elected or appointed public officials as of April 15 and to persons who are candidates on April 15.

(6) If a statement required to be filed under this section has not been received by the commission within five days after the date the statement is due, the commission shall notify the public official or candidate and give the public official or candidate not less than 15 days to comply with the requirements of this section. If the public official or candidate fails to comply by the date set by the commission, the commission may impose a civil penalty as provided in ORS 244.350.

## REPORT TO LEGISLATIVE ASSEMBLY

**SECTION 25.** ORS 419C.370 is amended to read:

(a) Violation of a law or ordinance relating to the use or operation of a motor vehicle, boating laws or game laws be waived to criminal or municipal court;

(b) An offense classified as a violation **other than a Class E violation** under the laws of this state or a political subdivision of this state be waived to municipal court if the municipal court has agreed to accept jurisdiction; and

(c) A misdemeanor that entails theft, destruction, tampering with or vandalism of property be waived to municipal court if the municipal court has agreed to accept jurisdiction.

(a) That the criminal or municipal court prior to hearing a case, other than a case involving a parking violation, in which the defendant is or appears to be under 18 years of age notify the juvenile court of that fact; and

(b) That the juvenile court may direct that any such case be waived to the juvenile court for further proceedings.

(3)(a) When a person who has been waived under subsection (1)(c) of this section is convicted of a property offense, the municipal court may impose any sanction authorized for the offense except for incarceration. The municipal court shall notify the juvenile court of the disposition of the case.

(b) When a person has been waived under subsection (1) of this section and fails to appear as summoned or is placed on probation and is alleged to have violated a condition of the probation, the juvenile court may recall the case to the juvenile court for further proceedings. When a person has been returned to juvenile court under this paragraph, the juvenile court may proceed as though the person had failed to appear as summoned to the juvenile court or had violated a juvenile court probation order under ORS 419C.446.

(4) Records of cases waived under subsection (1)(c) of this section are juvenile records for purposes of expunction under ORS 419A.260.

**SECTION 26.** Section 27 of this 2021 Act is added to and made a part of ORS chapter 419C.

**SECTION 27.** (1) Except as provided in subsection (2) of this section, if a youth is within the jurisdiction of the court for having committed an act that, if committed by an adult, would constitute a Class E violation, the court shall proceed in accordance with section 22, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)).

**(2) In addition to and not in lieu of any other penalty established by law, the court may order a youth described in subsection (1) of this section to undergo assessment and treatment.**

**SECTION 28.** ORS 51.050 is amended to read:

51.050. (1) Except as otherwise provided in this section, in addition to the criminal jurisdiction of justice courts already conferred upon and exercised by them, justice courts have jurisdiction of all offenses committed or triable in their respective counties. The jurisdiction conveyed by this section is concurrent with any jurisdiction that may be exercised by a circuit court or municipal court.

(2) In any justice court that has not become a court of record under ORS 51.025, a defendant charged with a misdemeanor shall be notified immediately after entering a plea of not guilty of the right of the defendant to have the matter transferred to the circuit court for the county where the justice court is located. The election shall be made within 10 days after the plea of not guilty is entered, and the justice shall immediately transfer the case to the appropriate court.

(3) A justice court does not have jurisdiction over the trial of any felony or a designated drug-related misdemeanor as defined in ORS 423.478. **A justice court does not have jurisdiction over Class E violations.** Except as provided in ORS 51.037, a justice court does not have jurisdiction over offenses created by the charter or ordinance of any city.

**SECTION 29.** ORS 221.339 is amended to read:

221.339. (1) A municipal court has concurrent jurisdiction with circuit courts and justice courts over all violations committed or triable in the city where the court is located.

(2) Except as provided in subsections (3) and (4) of this section, municipal courts have concurrent jurisdiction with circuit courts and justice courts over misdemeanors committed or triable in the city. Municipal courts may exercise the jurisdiction conveyed by this section without a charter provision or ordinance authorizing that exercise.

(3) Municipal courts have no jurisdiction over felonies, [or] designated drug-related misdemeanors as defined in ORS 423.478 **or Class E violations.**

(4) A city may limit the exercise of jurisdiction over misdemeanors by a municipal court under this section by the adoption of a charter provision or ordinance, except that municipal courts must retain concurrent jurisdiction with circuit courts over:

(a) Misdemeanors created by the city's own charter or by ordinances adopted by the city, as provided in ORS 3.132; and

(b) Traffic crimes as defined by ORS 801.545.

(5) Subject to the powers and duties of the Attorney General under ORS 180.060, the city attorney has authority to prosecute a violation of any offense created by statute that is subject to the jurisdiction of a municipal court, including any appeal, if the offense is committed or triable in the city. The prosecution shall be in the name of the state. The city attorney shall have all powers of a district attorney in prosecutions under this subsection.

**SECTION 30. Notwithstanding the amendments to ORS 51.050 and 221.339 by sections 28 and 29 of this 2021 Act:**

**(1) A municipal court or justice court with Class E violation proceeding pending before the court on the effective date of this 2021 Act may continue to exercise jurisdiction over the proceeding in accordance with section 22, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)).**

**(2) A judgment of a municipal court or justice court adjudicating a Class E violation prior to the effective date of this 2021 Act is validated.**

#### CRIMINAL FINE ACCOUNT



**SECTION 31.** ORS 137.300 is amended to read:

137.300. (1) The Criminal Fine Account is established in the General Fund. Except as otherwise provided by law, all amounts collected in state courts as monetary obligations in criminal actions shall be deposited by the courts in the account. All moneys in the account are continuously appropriated to the Department of Revenue to be distributed by the Department of Revenue as provided in this section. The Department of Revenue shall keep a record of moneys transferred into and out of the account.

(2) The Legislative Assembly shall first allocate moneys from the Criminal Fine Account for the following purposes, in the following order of priority:

(a) Allocations for public safety standards, training and facilities.

(b) Allocations for criminal injuries compensation and assistance to victims of crime and children reasonably suspected of being victims of crime.

(c) Allocations for the forensic services provided by the Oregon State Police, including, but not limited to, services of the Chief Medical Examiner.

(d) Allocations for the maintenance and operation of the Law Enforcement Data System.

(3) After making allocations under subsection (2) of this section, the Legislative Assembly shall allocate moneys from the Criminal Fine Account for the following purposes:

(a) Allocations to the Law Enforcement Medical Liability Account established under ORS 414.815.

(b) Allocations to the State Court Facilities and Security Account established under ORS 1.178.

(c) Allocations to the Department of Corrections for the purpose of planning, operating and maintaining county juvenile and adult corrections programs and facilities and drug and alcohol programs.

(d) Allocations to the Oregon Health Authority for the purpose of grants under ORS 430.345 for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services provided through a county.

(e) Allocations to the Oregon State Police for the purpose of the enforcement of the laws relating to driving under the influence of intoxicants.

(f) Allocations to the Arrest and Return Account established under ORS 133.865.

(g) Allocations to the Intoxicated Driver Program Fund established under ORS 813.270.

(h) Allocations to the State Court Technology Fund established under ORS 1.012.

**(4) Notwithstanding subsections (2) and (3) of this section, the Legislative Assembly shall allocate all moneys deposited into the Criminal Fine Account as payment of fines on Class E violations to the Drug Treatment and Recovery Services Fund established under section 5, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)).**

[(4)] (5) It is the intent of the Legislative Assembly that allocations from the Criminal Fine Account under subsection (3) of this section be consistent with historical funding of the entities, programs and accounts listed in subsection (3) of this section from monetary obligations imposed in criminal proceedings. Amounts that are allocated under subsection (3)(c) of this section shall be distributed to counties based on the amounts that were transferred to counties by circuit courts during the 2009-2011 biennium under the provisions of ORS 137.308, as in effect January 1, 2011.

[(5)] (6) Moneys in the Criminal Fine Account may not be allocated for the payment of debt service obligations.

[(6)] (7) The Department of Revenue shall deposit in the General Fund all moneys remaining in the Criminal Fine Account after the distributions listed in subsections (2), [and] (3) **and** (4) of this

section have been made.

[(7)] (8) The Department of Revenue shall establish by rule a process for distributing moneys in the Criminal Fine Account. The department may not distribute more than one-eighth of the total biennial allocation to an entity during a calendar quarter.

## UNIFORM CONTROLLED SUBSTANCES ACT CHANGES

**SECTION 32.** ORS 475.752, as amended by section 11, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

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

(a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise provided in ORS 475.886 and 475.890.

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

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

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

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

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

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

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

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

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

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

(3) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance 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. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a Class E violation, except as otherwise provided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

(b) A controlled substance in Schedule II, is guilty of a Class E violation, except as otherwise provided in ORS **475.814**, 475.824, 475.834 or 475.884 or subsection (8) of this section.

(c) A controlled substance in Schedule III, is guilty of a Class E violation.

(d) A controlled substance in Schedule IV, is guilty of a Class E violation.

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

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

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

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

(c) In a manner that is not dangerous to the health of the user or others who are in the proximity of the user.

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

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

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

*[(7)(a) Notwithstanding subsection (3)(a) of this section, unlawful possession of a controlled substance in Schedule I is a Class B felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).]*

*[(b) Notwithstanding subsection (3)(a) of this section and except as provided in ORS 475.900 (1)(b), unlawful possession of a controlled substance in Schedule I is a Class A misdemeanor if the person possesses:]*

*[(A) Forty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide; or]*

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

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

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

**(A) Forty or more user units of a mixture or substance containing a detectable amount of 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 (2)(b).**

(8) Notwithstanding subsection (3)(b) of this section, unlawful possession of a controlled substance in Schedule II is a Class C 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 (2)(b).**

**SECTION 33.** ORS 475.814 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) Unlawful possession of hydrocodone is a [Class A misdemeanor] Class E violation.**

**(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 34.** ORS 475.824, as amended by section 12, chapter 2, Oregon Laws 2021 (Ballot

Measure 110 (2020)), 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 Class E violation.

*[(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).]*

*[(c) 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.]*

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

**SECTION 35.** ORS 475.834, as amended by section 13, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

475.834. (1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless the oxycodone 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 oxycodone is a Class E violation.

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

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

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

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

**SECTION 36.** ORS 475.854, as amended by section 14, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

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

(2)(a) Unlawful possession of heroin is a Class E violation.

*[(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class B felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).]*

*[(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900 (1)(b), unlawful possession of heroin is a Class A misdemeanor if the person possesses one gram or more of a mixture or substance containing a detectable amount of heroin.]*

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

**Class A misdemeanor if the person possesses one gram or more of a mixture or substance containing a detectable amount of heroin.**

**(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of heroin 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 (2)(b).**

**SECTION 37.** ORS 475.874, as amended by section 15, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

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

(2)(a) Unlawful possession of 3,4-methylenedioxymethamphetamine is a Class E violation.

*[(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of 3,4-methylenedioxymethamphetamine is a Class B felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).]*

*[(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900 (1)(b), unlawful possession of methylenedioxymethamphetamine is a Class A misdemeanor if the person possesses one gram or more or five or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:]*

*[(A) 3,4-methylenedioxyamphetamine;]*

*[(B) 3,4-methylenedioxymethamphetamine; or]*

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

**(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of 3,4-methylenedioxymethamphetamine is a Class A misdemeanor if the person possesses one gram or more or five or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:**

**(A) 3,4-methylenedioxyamphetamine;**

**(B) 3,4-methylenedioxymethamphetamine; or**

**(C) 3,4-methylenedioxy-N-ethylamphetamine.**

**(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of 3,4-methylenedioxymethamphetamine 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 (2)(b).**

**SECTION 38.** ORS 475.884, as amended by section 16, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

475.884. (1) It is unlawful for any person knowingly or intentionally to possess cocaine unless the substance 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 cocaine is a Class E violation.

*[(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).]*

*[(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900 (1)(b), unlawful possession of cocaine is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance containing a detectable amount of cocaine.]*

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

**Class A misdemeanor if the person possesses two grams or more of a mixture or substance containing a detectable amount of cocaine.**

**(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of cocaine is a Class C 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 (2)(b).**

**SECTION 39.** ORS 475.894, as amended by section 17, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

475.894. (1) It is unlawful for any person knowingly or intentionally to possess methamphetamine unless the substance 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 methamphetamine is a Class E violation.

*[(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).]*

*[(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900 (1)(b), unlawful possession of methamphetamine is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance containing a detectable amount of methamphetamine.]*

**(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance containing a detectable amount of methamphetamine.**

**(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of methamphetamine is a Class C 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 (2)(b).**

**SECTION 40.** ORS 475.900 is amended to read:

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

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

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

**(B) Five grams or more of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the Oregon Board of Pharmacy;**

*[(B)] (C) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;*

*[(C)] (D) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;*

*[(D)] (E) Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;*

*[(E)] (F) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or*

*[(F)] (G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:*

- (i) 3,4-methylenedioxyamphetamine;
- (ii) 3,4-methylenedioxymethamphetamine; or
- (iii) 3,4-methylenedioxy-N-ethylamphetamine.

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

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

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

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

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

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

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

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

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

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

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

(K) The offender was in possession of controlled substances in an amount greater than:

(i) Three grams or more of a mixture or substance containing a detectable amount of heroin;

**(ii) Three grams or more of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the Oregon Board of Pharmacy;**

~~[(ii)]~~ **(iii)** Eight grams or more of a mixture or substance containing a detectable amount of cocaine;

~~[(iii)]~~ **(iv)** Eight grams or more of a mixture or substance containing a detectable amount of methamphetamine;

~~[(iv)]~~ **(v)** Twenty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

~~[(v)]~~ **(vi)** Ten grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

~~[(vi)]~~ **(vii)** Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(I) 3,4-methylenedioxyamphetamine;

(II) 3,4-methylenedioxymethamphetamine; or

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

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

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

(A) A chemical reaction involving one or more precursor substances for the purpose of manufacturing methamphetamine; or

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

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

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

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

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

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

**(B) Five grams or more of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the Oregon Board of Pharmacy;**

**[(B)] (C)** Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

**[(C)] (D)** Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine;

**[(D)] (E)** Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

**[(E)] (F)** Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

**[(F)] (G)** Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(i) 3,4-methylenedioxyamphetamine;

(ii) 3,4-methylenedioxymethamphetamine; or

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

(3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsection (1) or (2) 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.*

(4) In order to prove a commercial drug offense, the state shall plead in the accusatory instrument sufficient factors of a commercial drug offense under subsections (1) and (2) of this section. The state has the burden of proving each factor beyond a reasonable doubt.

(5) As used in this section, "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.

**SECTION 41.** ORS 475.925 is amended to read:

475.925. When a person is convicted of the unlawful delivery or manufacture of a controlled substance, the court shall sentence the person to a term of incarceration ranging from:

(1) 58 months to 130 months, depending on the person's criminal history, if the delivery or manufacture involves:

(a) 500 grams or more of a mixture or substance containing a detectable amount of cocaine;

(b) 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;

(c) 100 grams or more of a mixture or substance containing a detectable amount of heroin; [or]

**(d) 100 grams or more of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the Oregon Board of Pharmacy; or**

[(d)] (e) 100 grams or more or 500 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of ecstasy.

(2) 34 months to 72 months, depending on the person's criminal history, if the delivery or manufacture involves:

(a) 100 grams or more of a mixture or substance containing a detectable amount of cocaine;

(b) 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;

(c) 50 grams or more of a mixture or substance containing a detectable amount of heroin; [or]

**(d) 50 grams or more of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the Oregon Board of Pharmacy; or**

[(d)] (e) 50 grams or more or 250 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of ecstasy.

**SECTION 42.** ORS 475.235 is amended to read:

475.235. (1) It is not necessary for the state to negate any exemption or exception in ORS 475.005 to 475.285 and 475.752 to 475.980 in any complaint, information, indictment or other pleading or in any trial, hearing or other proceeding under ORS 475.005 to 475.285 and 475.752 to 475.980. The burden of proof of any exemption or exception is upon the person claiming it.

(2) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under ORS 475.005 to 475.285 and 475.752 to 475.980, the person is presumed not to be the holder of the registration or form. The burden of proof is upon the person to rebut the presumption.

(3)(a) When a controlled substance is at issue in a criminal proceeding before a grand jury, at a preliminary hearing, in a proceeding on a district attorney's information, **during a proceeding on a Class E violation** or for purposes of an early disposition program, it is prima facie evidence of the identity of the controlled substance if:

(A) A sample of the controlled substance is tested using a presumptive test for controlled substances;

(B) The test is conducted by a law enforcement officer trained to use the test or by a forensic scientist; and

(C) The test is positive for the particular controlled substance.

(b) When the identity of a controlled substance is established using a presumptive test for pur-

poses of a criminal proceeding before a grand jury, a preliminary hearing, a proceeding on a district attorney's information or an early disposition program, the defendant, upon notice to the district attorney, may request that the controlled substance be sent to a state police forensic laboratory for analysis. **The defendant may not make a request under this paragraph concerning a controlled substance at issue in a proceeding on a Class E violation.**

(4) Notwithstanding any other provision of law, in all prosecutions in which an analysis of a controlled substance or sample was conducted, a certified copy of the analytical report signed by the director of a state police forensic laboratory or the analyst or forensic scientist conducting the analysis shall be admitted as prima facie evidence of the results of the analytical findings unless the defendant has provided notice of an objection in accordance with subsection (5) of this section.

(5) If the defendant intends to object at trial to the admission of a certified copy of an analytical report as provided in subsection (4) of this section, not less than 15 days prior to trial the defendant shall file written notice of the objection with the court and serve a copy on the district attorney.

(6) As used in this section:

(a) "Analyst" means a person employed by the Department of State Police to conduct analysis in forensic laboratories established by the department under ORS 181A.150.

(b) "Presumptive test" includes, but is not limited to, chemical tests using Marquis reagent, Duquenois-Levine reagent, Scott reagent system or modified Chen's reagent.

## CONFORMING AMENDMENTS

**SECTION 43.** ORS 161.570 is amended to read:

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

(2) A district attorney may elect to treat a Class C nonperson felony or a violation of ORS 475.752 (7)(b), 475.854 [(2)(b)] (2)(c) or 475.874 [(2)(b)] (2)(c) as a Class A misdemeanor. The election must be made by the district attorney orally or in writing at the time of the first appearance of the defendant. If a district attorney elects to treat a Class C felony or a violation of ORS 475.752 (7)(b), 475.854 [(2)(b)] (2)(c) or 475.874 [(2)(b)] (2)(c) as a Class A misdemeanor under this subsection, the court shall amend the accusatory instrument to reflect the charged offense as a Class A misdemeanor.

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

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

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

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

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

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

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

**SECTION 44.** ORS 423.478, as amended by section 20, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

423.478. (1) The Department of Corrections shall:

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

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

(A) Allow tracking of offenders; and

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

(c) Provide interstate compact administration and jail inspections.

(2) Subject to ORS 423.483, *[the]* a county, in partnership with the department, shall assume responsibility for community-based supervision, sanctions and services for offenders convicted of felonies or designated drug-related misdemeanors who are:

(a) On parole;

(b) On probation;

(c) On post-prison supervision;

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

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

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

(3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration, when an offender is committed to the custody of the supervisory authority of a county under ORS 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority releases a person from custody under this subsection and the person is required to report as a sex offender under ORS 163A.010, the supervisory authority, as a condition of release, shall order the person to report to the Department of State Police, a city police department or a county sheriff's office or to the supervising agency, if any:

(a) When the person is released;

(b) Within 10 days of a change of residence;

(c) Once each year within 10 days of the person's birth date;

(d) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(e) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(4) As used in this section:

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

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

(A) Unlawful possession of methadone under ORS 475.824 [(2)(c)] **(2)(b)**;

(B) Unlawful possession of oxycodone under ORS 475.834 [(2)(c)] **(2)(b)**;

(C) Unlawful possession of heroin under ORS 475.854 [(2)(c)] **(2)(b)**;

(D) Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 [(2)(c)]

(2)(b);

(E) Unlawful possession of cocaine under ORS 475.884 [(2)(c)] (2)(b); or

(F) Unlawful possession of methamphetamine under ORS 475.894 [(2)(c)] (2)(b).

**SECTION 45.** ORS 135.242 is amended to read:

135.242. (1) When a defendant is charged with an offense described in subsection (7) of this section, the court may not release the defendant on any form of release other than a security release and shall set a security amount of not less than \$500,000 if the court finds:

(a) Except when the defendant is charged by indictment, that there is probable cause to believe that the defendant committed the crime; and

(b) By clear and convincing evidence that there is a danger that the defendant will:

(A) Fail to appear in court at all appropriate times;

(B) Commit a new criminal offense; or

(C) Pose a threat to the reasonable protection of the public.

(2) If the defendant wants to have a hearing on the issue of release, the defendant must request the hearing at the time of arraignment in circuit court. If the defendant requests a release hearing, the court must hold the hearing within five days of the request.

(3) At the release hearing, unless the state stipulates to the setting of a security amount less than \$500,000, the court shall make the inquiry set forth in subsection (1) of this section. The state has the burden of producing evidence at the release hearing subject to ORS 40.015 (4).

(4) The defendant may be represented by counsel and may present evidence on any relevant issue. However, the hearing may not be used for purposes of discovery.

(5) If the court determines that the defendant is eligible for a security amount of less than \$500,000, the court shall reduce the security amount to an amount not less than \$50,000 and may set other appropriate conditions of release.

(6) When a defendant who has been released after posting the security amount described in subsection (5) of this section violates a condition of release and the violation:

(a) Constitutes a new criminal offense, the court shall cause the defendant to be taken back into custody and shall impose a security amount of not less than \$500,000.

(b) Does not constitute a new criminal offense, the court may order the defendant to be taken back into custody, may order the defendant held pending trial and may set a security amount of not less than \$250,000.

(7) The offenses to which subsection (1) of this section applies are:

(a) Manufacture of methamphetamine under ORS 475.886.

(b) Manufacture of methamphetamine within 1,000 feet of a school under ORS 475.888.

(c) Delivery of methamphetamine within 1,000 feet of a school under ORS 475.892.

(d) Delivery of methamphetamine under ORS 475.890 if the delivery involves:

(A) Substantial quantities of methamphetamine under ORS 475.900 [(1)(a)(C)] (1)(a)(D); or

(B) A commercial drug offense under ORS 475.900 (1)(b).

(e) Delivery of methamphetamine to a minor under ORS 475.906.

(8) Nothing in this section affects the ability of a county court or board of commissioners of a county to adopt or implement a jail capacity limit and action plan under ORS 169.042 to 169.046.

#### PENDING CHARGES

**SECTION 46.** (1) Notwithstanding ORS 161.566, a prosecuting attorney may elect to treat

as a Class E violation any offense that would constitute a Class E violation had the offense been committed on or after February 1, 2021, as described in this section.

(2) If the prosecuting attorney elects to treat an offense as a Class E violation under this section, with the consent of the defendant and as part of the same hearing, the prosecuting attorney shall move to dismiss the original offense and simultaneously initiate a Class E violation proceeding. In providing consent under this subsection, the defendant waives any challenge to the Class E violation under ORS 131.125.

(3) If a Class E violation proceeding is initiated under this section, upon receiving verification that the defendant has obtained a screening or other treatment contact through a Behavioral Health Resource Network, including the telephone hotline described in section 23 (1), chapter 2, Oregon Laws 2021 (Ballot Measure 110), the court shall dismiss the citation.

## EFFECTIVE AND OPERATIVE DATES

**SECTION 47.** Section 25, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

**Sec. 25.** *[Effective and Operative Dates.]* (1) *[This Act]* **Chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, shall become effective pursuant to Article IV, section 1 (4)(d), of the Oregon Constitution.

(2) **Section 22, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, and the amendments to statutes by *[section]* sections 11 to *[section]* 21, *[and section 22,]* **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, become operative on February 1, 2021.

## CAPTIONS

**SECTION 48.** The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

## EMERGENCY CLAUSE

**SECTION 49.** This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.