

House Bill 3534

Sponsored by Representative HIEB; Senator MANNING JR

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Defines terms. Increases penalties for possession of controlled substance when possession occurs visibly in public place. Punishes by maximum of 30 days' jail, \$1,250 fine, or both.

A BILL FOR AN ACT

1
2 Relating to possession of controlled substances; creating new provisions; and amending ORS 161.570,
3 423.478, 475.005, 475.752, 475.814, 475.824, 475.834, 475.854, 475.874, 475.884 and 475.894.

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

5 **SECTION 1.** ORS 475.005 is amended to read:

6 475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires
7 otherwise:

8 (1) "Abuse" means the repetitive excessive use of a drug short of dependence, without legal or
9 medical supervision, which may have a detrimental effect on the individual or society.

10 (2) "Administer" means the direct application of a controlled substance, whether by injection,
11 inhalation, ingestion or any other means, to the body of a patient or research subject by:

12 (a) A practitioner or an authorized agent thereof; or

13 (b) The patient or research subject at the direction of the practitioner.

14 (3) "Administration" means the Drug Enforcement Administration of the United States Depart-
15 ment of Justice, or its successor agency.

16 (4) "Agent" means an authorized person who acts on behalf of or at the direction of a man-
17 ufacturer, distributor or dispenser. It does not include a common or contract carrier, public
18 warehouseman or employee of the carrier or warehouseman.

19 (5) "Board" means the State Board of Pharmacy.

20 (6) "Controlled substance":

21 (a) Means a drug or its immediate precursor classified in Schedules I through V under the fed-
22 eral Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the
23 term "precursor" in this paragraph does not control and is not controlled by the use of the term
24 "precursor" in ORS 475.752 to 475.980.

25 (b) Does not include:

26 (A) The plant Cannabis family Cannabaceae;

27 (B) Any part of the plant Cannabis family Cannabaceae, whether growing or not;

28 (C) Resin extracted from any part of the plant Cannabis family Cannabaceae;

29 (D) The seeds of the plant Cannabis family Cannabaceae;

30 (E) Any compound, manufacture, salt, derivative, mixture or preparation of a plant, part of a
31 plant, resin or seed described in this paragraph; or

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (F) Psilocybin or psilocin, but only if and to the extent that a person manufactures, delivers[,]
 2 or possesses psilocybin, psilocin[,] or psilocybin products in accordance with the provisions of ORS
 3 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

4 (7) “Counterfeit substance” means a controlled substance or its container or labeling, which,
 5 without authorization, bears the trademark, trade name, or other identifying mark, imprint, number
 6 or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person
 7 who in fact manufactured, delivered or dispensed the substance.

8 (8) “Deliver” or “delivery” means the actual, constructive or attempted transfer, other than by
 9 administering or dispensing, from one person to another of a controlled substance, whether or not
 10 there is an agency relationship.

11 (9) “Device” means instruments, apparatus or contrivances, including their components, parts
 12 or accessories, intended:

13 (a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or
 14 animals; or

15 (b) To affect the structure of any function of the body of humans or animals.

16 (10) “Dispense” means to deliver a controlled substance to an ultimate user or research subject
 17 by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering,
 18 packaging, labeling or compounding necessary to prepare the substance for that delivery.

19 (11) “Dispenser” means a practitioner who dispenses.

20 (12) “Distributor” means a person who delivers.

21 (13) “Drug” means:

22 (a) Substances recognized as drugs in the official United States Pharmacopoeia, official
 23 Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement
 24 to any of them;

25 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of
 26 disease in humans or animals;

27 (c) Substances (other than food) intended to affect the structure or any function of the body of
 28 humans or animals; and

29 (d) Substances intended for use as a component of any article specified in paragraph (a), (b) or
 30 (c) of this subsection; however, the term does not include devices or their components, parts or ac-
 31 cessories.

32 (14) “Electronically transmitted” or “electronic transmission” means a communication sent or
 33 received through technological apparatuses, including computer terminals or other equipment or
 34 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,
 35 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

36 (15) “Manufacture” means the production, preparation, propagation, compounding, conversion
 37 or processing of a controlled substance, either directly or indirectly by extraction from substances
 38 of natural origin, or independently by means of chemical synthesis, or by a combination of extraction
 39 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or
 40 relabeling of its container, except that this term does not include the preparation or compounding
 41 of a controlled substance:

42 (a) By a practitioner as an incident to administering or dispensing of a controlled substance in
 43 the course of professional practice; or

44 (b) By a practitioner, or by an authorized agent under the practitioner’s supervision, for the
 45 purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

1 (16) "Person" includes a government subdivision or agency, business trust, estate, trust or any
 2 other legal entity.

3 (17) "Practitioner" means physician, dentist, veterinarian, scientific investigator, licensed nurse
 4 practitioner, physician assistant or other person licensed, registered or otherwise permitted by law
 5 to dispense, conduct research with respect to or to administer a controlled substance in the course
 6 of professional practice or research in this state but does not include a pharmacist or a pharmacy.

7 (18) "Prescription" means a written, oral or electronically transmitted direction, given by a
 8 practitioner for the preparation and use of a drug. When the context requires, "prescription" also
 9 means the drug prepared under such written, oral or electronically transmitted direction. Any label
 10 affixed to a drug prepared under written, oral or electronically transmitted direction shall promi-
 11 nently display a warning that the removal thereof is prohibited by law.

12 (19) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a
 13 controlled substance.

14 **(20) "Public place" has the meaning given that term in ORS 161.015.**

15 [(20)] (21) "Research" means an activity conducted by the person registered with the federal
 16 Drug Enforcement Administration pursuant to a protocol approved by the United States Food and
 17 Drug Administration.

18 [(21)] (22) "Ultimate user" means a person who lawfully possesses a controlled substance for the
 19 use of the person or for the use of a member of the household of the person or for administering to
 20 an animal owned by the person or by a member of the household of the person.

21 [(22)] (23) "Usable quantity" means:

22 (a) An amount of a controlled substance that is sufficient to physically weigh independent of its
 23 packaging and that does not fall below the uncertainty of the measuring scale; or

24 (b) An amount of a controlled substance that has not been deemed unweighable, as determined
 25 by a Department of State Police forensic laboratory, due to the circumstances of the controlled
 26 substance.

27 **(24) "Visibly" means, with respect to the possession of a controlled substance, that the**
 28 **controlled substance is capable of being seen without visual aid by a person of normal visual**
 29 **acuity.**

30 [(23)] (25) "Within 1,000 feet" means a straight line measurement in a radius extending for 1,000
 31 feet or less in every direction from a specified location or from any point on the boundary line of
 32 a specified unit of property.

33 **SECTION 2.** ORS 475.752 is amended to read:

34 475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
 35 for any person to manufacture or deliver a controlled substance. Any person who violates this sub-
 36 section with respect to:

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

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

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

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

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

45 (2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any

1 person to create or deliver a counterfeit substance. Any person who violates this subsection with
 2 respect to:

- 3 (a) A counterfeit substance in Schedule I, is guilty of a Class A felony.
- 4 (b) A counterfeit substance in Schedule II, is guilty of a Class B felony.
- 5 (c) A counterfeit substance in Schedule III, is guilty of a Class C felony.
- 6 (d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.
- 7 (e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.

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

- 13 (a) A controlled substance in Schedule I, is guilty of a Class E violation, except as otherwise
 14 provided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.
- 15 (b) A controlled substance in Schedule II, is guilty of a Class E violation, except as otherwise
 16 provided in ORS 475.814, 475.824, 475.834 or 475.884 or subsection (8) of this section.
- 17 (c) A controlled substance in Schedule III, is guilty of a Class E violation.
- 18 (d) A controlled substance in Schedule IV, is guilty of a Class E violation.
- 19 (e) A controlled substance in Schedule V, is guilty of a violation.

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

- 23 (a) In connection with the good faith practice of a religious belief;
- 24 (b) As directly associated with a religious practice; and
- 25 (c) In a manner that is not dangerous to the health of the user or others who are in the prox-
 26 imity of the user.

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

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

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

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

35 **(a) Unlawful possession of a controlled substance in Schedule I is a Class C misdemeanor**
 36 **if the person visibly possesses the controlled substance in a public place.**

37 [(a)] (b) Unlawful possession of a controlled substance in Schedule I is a Class A misdemeanor
 38 if the person possesses:

- 39 (A) Forty or more user units of a mixture or substance containing a detectable amount of
 40 lysergic acid diethylamide; or
- 41 (B) Twelve grams or more of a mixture or substance containing a detectable amount of
 42 psilocybin or psilocin.

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

- 44 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or
- 45 (B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

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

(a) Unlawful possession of a controlled substance in Schedule II is a Class C misdemeanor if the person visibly possesses the controlled substance in a public place.

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

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

[(b)] **(B)** The person possesses a substantial quantity under ORS 475.900 (2)(b).

SECTION 3. 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 E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of hydrocodone is a Class C misdemeanor if the person visibly possesses the hydrocodone in a public place.

[(b)] **(c)** Notwithstanding [paragraph (a)] **paragraphs (a) and (b)** 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 4. ORS 475.824 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 misdemeanor if the person visibly possesses the methadone in a public place.

[(b)] **(c)** Notwithstanding [paragraph (a)] **paragraphs (a) and (b)** 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)] **(d)** Notwithstanding paragraphs (a) [and (b)] **to (c)** 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 5. ORS 475.834 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 misdemeanor if the person visibly possesses the oxycodone in a public place.

[(b)] **(c)** Notwithstanding [paragraph (a)] **paragraphs (a) and (b)** 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)] **(d)** Notwithstanding paragraphs (a) [and (b)] **to (c)** of this subsection, unlawful possession

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

3 **SECTION 6.** ORS 475.854 is amended to read:

4 475.854. (1) It is unlawful for any person knowingly or intentionally to possess heroin.

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

6 **(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a**
 7 **Class C misdemeanor if the person visibly possesses the heroin in a public place.**

8 [(b)] (c) Notwithstanding [paragraph (a)] **paragraphs (a) and (b)** of this subsection, unlawful
 9 possession of heroin is a Class A misdemeanor if the person possesses one gram or more of a mix-
 10 ture or substance containing a detectable amount of heroin.

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

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

14 (B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

15 **SECTION 7.** ORS 475.874 is amended to read:

16 475.874. (1) It is unlawful for any person knowingly or intentionally to possess
 17 3,4-methylenedioxyamphetamine.

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

19 **(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of**
 20 **3,4-methylenedioxyamphetamine is a Class C misdemeanor if the person visibly pos-**
 21 **sesses the 3,4-methylenedioxyamphetamine in a public place.**

22 [(b)] (c) Notwithstanding [paragraph (a)] **paragraphs (a) and (b)** of this subsection, unlawful
 23 possession of 3,4-methylenedioxyamphetamine is a Class A misdemeanor if the person possesses
 24 one gram or more or five or more pills, tablets or capsules of a mixture or substance containing a
 25 detectable amount of:

26 (A) 3,4-methylenedioxyamphetamine;

27 (B) 3,4-methylenedioxyamphetamine; or

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

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

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

32 (B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

33 **SECTION 8.** ORS 475.884 is amended to read:

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

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

39 **(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a**
 40 **Class C misdemeanor if the person visibly possesses the cocaine in a public place.**

41 [(b)] (c) Notwithstanding [paragraph (a)] **paragraphs (a) and (b)** of this subsection, unlawful
 42 possession of cocaine is a Class A misdemeanor if the person possesses two grams or more of a
 43 mixture or substance containing a detectable amount of cocaine.

44 [(c)] (d) Notwithstanding paragraphs (a) [and (b)] **to (c)** of this subsection, unlawful possession
 45 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 9. ORS 475.894 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 misdemeanor if the person visibly possesses the methamphetamine in a public place.

[(b)] (c) Notwithstanding [paragraph (a)] **paragraphs (a) and (b)** 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)] **(d)** Notwithstanding paragraphs (a) [and (b)] **to (c)** 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 10. 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)] **(7)(c)**, 475.854 [(2)(c)] **(2)(d)** or 475.874 [(2)(c)] **(2)(d)** 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)] **(7)(c)**, 475.854 [(2)(c)] **(2)(d)** or 475.874 [(2)(c)] **(2)(d)** 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)] **(7)(c)**, 475.854 [(2)(c)] **(2)(d)** or 475.874 [(2)(c)] **(2)(d)**, 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)] **(7)(c)**, 475.854 [(2)(c)] **(2)(d)** or 475.874 [(2)(c)] **(2)(d)** 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 11. ORS 423.478 is amended to read:

- 1 423.478. (1) The Department of Corrections shall:
- 2 (a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;
- 3 (b) Provide central information and data services sufficient to:
- 4 (A) Allow tracking of offenders; and
- 5 (B) Permit analysis of correlations between sanctions, supervision, services and programs, and
- 6 future criminal conduct; and
- 7 (c) Provide interstate compact administration and jail inspections.
- 8 (2) Subject to ORS 423.483, each county, in partnership with the department, shall assume re-
- 9 sponsibility for community-based supervision, sanctions and services for offenders convicted of felo-
- 10 nies, designated drug-related misdemeanors or designated person misdemeanors who are:
- 11 (a) On parole;
- 12 (b) On probation;
- 13 (c) On post-prison supervision;
- 14 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;
- 15 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-
- 16 Prison Supervision to 12 months or less incarceration for violation of a condition of parole, pro-
- 17 bation or post-prison supervision; or
- 18 (f) On conditional release under ORS 420A.206.
- 19 (3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration,
- 20 when an offender is committed to the custody of the supervisory authority of a county under ORS
- 21 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other
- 22 than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority
- 23 releases a person from custody under this subsection and the person is required to report as a sex
- 24 offender under ORS 163A.010, the supervisory authority, as a condition of release, shall order the
- 25 person to report to the Department of State Police, a city police department or a county sheriff's
- 26 office or to the supervising agency, if any:
- 27 (a) When the person is released;
- 28 (b) Within 10 days of a change of residence;
- 29 (c) Once each year within 10 days of the person's birth date;
- 30 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an
- 31 institution of higher education; and
- 32 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher
- 33 education.
- 34 (4) As used in this section:
- 35 (a) "Attends," "institution of higher education," "works" and "carries on a vocation" have the
- 36 meanings given those terms in ORS 163A.005.
- 37 (b) "Designated drug-related misdemeanor" means:
- 38 (A) Unlawful possession of methadone under ORS 475.824 [(2)(b)] **(2)(c)**;
- 39 (B) Unlawful possession of oxycodone under ORS 475.834 [(2)(b)] **(2)(c)**;
- 40 (C) Unlawful possession of heroin under ORS 475.854 [(2)(b)] **(2)(c)**;
- 41 (D) Unlawful possession of 3,4-methylenedioxyamphetamine under ORS 475.874 [(2)(b)]
- 42 **(2)(c)**;
- 43 (E) Unlawful possession of cocaine under ORS 475.884 [(2)(b)] **(2)(c)**; or
- 44 (F) Unlawful possession of methamphetamine under ORS 475.894 [(2)(b)] **(2)(c)**.
- 45 (c) "Designated person misdemeanor" means:

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

3 (B) Menacing constituting domestic violence if the judgment document is as described in ORS
4 163.190 (3); or

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

6 **SECTION 12. The amendments to ORS 161.570, 423.478, 475.005, 475.752, 475.814, 475.824,**
7 **475.834, 475.854, 475.874, 475.884 and 475.894 by sections 1 to 11 of this 2023 Act apply to con-**
8 **duct occurring on or after the effective date of this 2023 Act.**

9