

# House Bill 4114

Sponsored by Representative SANCHEZ; Representatives BOICE, FAHEY, GOMBERG, HARTMAN, HELM, HIEB, LEVY B, LIVELY, MARSH, NATHANSON, OWENS, PHAM H, WALTERS, Senators DEMBROW, FREDERICK, GOLDEN, HANSELL, STEINER (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes current laws about where police may take a person who is in public while on drugs or drunk. The Act expands how long a person may be held after being given an opioid reversal drug. (Flesch Readability Score: 71.7).

Permits a police officer to take a person who is publicly intoxicated or under the influence of controlled substances, but who is not incapacitated, to their dwelling or, if the person is unable to identify a dwelling, to a treatment facility or sobering facility. Allows a person who has recently received an opioid reversal medication to be admitted to a treatment facility or sobering facility until the person is medically stable and has had a reasonable opportunity to engage in case management, or 72 hours after admission, whichever occurs first.

## A BILL FOR AN ACT

1  
2 Relating to behavioral health; amending ORS 430.399.

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

4 **SECTION 1.** ORS 430.399 is amended to read:

5 430.399. *[(1) Any person who is intoxicated or under the influence of controlled substances in a*  
6 *public place may be sent home or taken to a sobering facility or to a treatment facility by a police of-*  
7 *ficer. If the person is incapacitated, the person shall be taken by the police officer to an appropriate*  
8 *treatment facility or sobering facility. If the health of the person appears to be in immediate danger,*  
9 *or the police officer has reasonable cause to believe the person is dangerous to self or to any other*  
10 *person, the person shall be taken by the police officer to an appropriate treatment facility or sobering*  
11 *facility. A person shall be deemed incapacitated when in the opinion of the police officer the person is*  
12 *unable to make a rational decision as to acceptance of assistance.]*

13 **(1) A person shall be deemed incapacitated under this section when the person is unable**  
14 **to make a rational decision as to whether to accept assistance.**

15 **(2)(a) If a police officer encounters in a public place a person who is intoxicated or who**  
16 **is under the influence of controlled substances, but who the police officer reasonably believes**  
17 **is not incapacitated, the police officer or the police officer's designee may take the person**  
18 **to:**

19 **(A) The person's dwelling, if the person is able to identify a dwelling; or**

20 **(B) An appropriate treatment facility or sobering facility.**

21 **(b) If a police officer encounters in a public place a person who is intoxicated, who is**  
22 **under the influence of controlled substances or who the police officer reasonably believes**  
23 **recently received an opioid reversal medication, the police officer or the police officer's**  
24 **designee shall take the person to a treatment facility or sobering facility, if the police officer**  
25 **reasonably believes:**

**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 **(A) The person received an opioid reversal medication within the last four hours;**

2 **(B) The person is incapacitated;**

3 **(C) The health of the person is in imminent danger; or**

4 **(D) The person is dangerous to self or to any other person.**

5 [(2)] **(3)(a)** When a person is taken to a treatment facility, the director of the treatment facility  
6 shall determine whether the person shall be admitted as a patient, referred to another treatment  
7 facility [*or a*], **referred to a sobering facility** or denied referral or admission.

8 **(b)** If the person is incapacitated or the health of the person appears to be in [*immediate*] **im-**  
9 **minent** danger, or if the director has reasonable cause to believe the person is dangerous to self  
10 or to any other person, the person must be admitted. [*The person shall be discharged within 48 hours*  
11 *unless the person has applied for voluntary admission to the treatment facility.*]

12 **(c) Unless the person has applied for voluntary admission to the treatment facility:**

13 **(A) The person must be discharged within 48 hours; or**

14 **(B) If the person was admitted to the treatment facility due to the recent administration**  
15 **of an opioid reversal medication, the person may be held until the earlier of the following:**

16 **(i) The director of the treatment facility determines that the person is medically stable**  
17 **and the person has had a reasonable opportunity to engage in case management; or**

18 **(ii) 72 hours after admission.**

19 [(3)] **(4)(a)** When a person is taken to a sobering facility, the staff of the sobering facility shall,  
20 consistent with the facility's comprehensive written policies and procedures, determine whether or  
21 not the person shall be admitted into the sobering facility.

22 **(b)(A)** A person who is admitted shall be discharged from the sobering facility within 24  
23 hours[.]; **or**

24 **(B) If the person was admitted to the sobering facility due to the recent administration**  
25 **of an opioid reversal medication, the person may be held until the earlier of the following:**

26 **(i) The staff of the sobering facility determine that the person is medically stable and the**  
27 **person has had a reasonable opportunity to engage in case management; or**

28 **(ii) 72 hours after admission.**

29 **(5)(a) If a person was taken to the treatment facility or sobering facility due to a recent**  
30 **administration of an opioid reversal medication and the person is not admitted due to ad-**  
31 **ministrative or staffing issues at the treatment facility or sobering facility, the police officer**  
32 **or the police officer's designee shall take the person to an appropriate treatment facility or**  
33 **sobering facility or, if none, to a hospital.**

34 [(4)] **(b) Except as provided in paragraph (a) of this subsection,** in the absence of any ap-  
35 propriate treatment facility or sobering facility, or if a sobering facility determines that a person  
36 should not be admitted to the sobering facility, an intoxicated person or a person under the influ-  
37 ence of controlled substances who would otherwise be taken by the police officer to a treatment  
38 facility or sobering facility may be taken to the city or county jail where the person may be held  
39 until no longer intoxicated, under the influence of controlled substances or incapacitated.

40 [(5)] **(6)** An intoxicated person or person under the influence of controlled substances, when  
41 taken into custody by the police officer for a criminal offense, shall immediately be taken to the  
42 nearest appropriate treatment facility when the condition of the person requires emergency medical  
43 treatment.

44 [(6)] **(7)** The records of a person at a treatment facility or sobering facility may not, without the  
45 person's consent, be revealed to any person other than the director and staff of the treatment fa-

1 cility or sobering facility. A person's request that no disclosure be made of admission to a treatment  
2 facility or sobering facility shall be honored unless the person is incapacitated or disclosure of ad-  
3 mission is required by ORS 430.397.

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