

SENATE AMENDMENTS TO SENATE BILL 236

By JOINT COMMITTEE ON ADDICTION AND COMMUNITY SAFETY RESPONSE

June 3

On page 1 of the printed bill, line 2, after the second semicolon delete the rest of the line and lines 3 and 4 and insert “amending ORS 137.532, 414.766, 423.478, 475.005, 475.188, 475.245, 475.752, 475.898, 475.900, 475.907, 475.924, 475.934 and 689.005 and sections 2, 7, 8, 35, 36, 52, 54, 76 and 81, chapter 70, Oregon Laws 2024; and declaring an emergency.”.

On page 10, delete lines 19 through 21.

In line 22, delete “(b)” and insert “(a)”.

In line 23, delete “(c)” and insert “(b)” and after “proceedings” delete the rest of the line.

In line 24, delete “accusatory instrument”.

After line 40, insert:

“(a) If the court finds that the person has fulfilled the terms and conditions of the probation agreement, discharge the person and dismiss the proceedings against the person as described in subsection (3) of this section;”.

In line 41, delete “(a)” and insert “(b)”.

Delete line 43 and insert:

“(c) Resume the criminal proceedings in accordance with the waiver of rights in the probation agreement. If the court proceeds under this paragraph, the person may not contest the sufficiency of the evidence establishing the person’s guilt of the offenses in the accusatory instrument.”.

On page 13, line 42, delete “and 475.924 by sections 9 and 10” and insert “by section 9”.

On page 14, delete lines 12 through 45 and delete pages 15 and 16.

On page 17, delete lines 1 through 15 and insert:

“**SECTION 18.** Section 7, chapter 70, Oregon Laws 2024, is amended to read:

“**Sec. 7.** [(1) *As used in this section:*]

“[(a) *‘Early refill’ means:*]

“[(A) *Up to three refills of a current prescription for a medication that a patient has lost or that has been stolen or destroyed; or]*

“[(B) *One refill in a 12-month period of a medication for which the previous prescription expired in the prior 12-month period.*]

“[(b) *‘Refill’ means a supply of a medication consistent with the amount specified in the most recent prescription for the medication.*]

“[(2)] (1) A pharmacist may prescribe, [and] dispense **and administer** to a patient[, *to the extent permitted by federal law, an early refill of a*] medication for the treatment of opioid use disorder in accordance with [subsection (3) of this section.]:

“(a) **A statewide drug therapy management protocol developed, in consultation with a physician with a background in addiction medicine, by the Public Health and Pharmacy Formulary Advisory Committee convened under ORS 689.649 and adopted by State Board of**

1 **Pharmacy rule pursuant to ORS 689.645; or**

2 **“(b) A collaborative drug therapy management agreement.**

3 *“[(3) A pharmacist who prescribes and dispenses early refills under this section shall:]*

4 *“[(a) Complete a patient assessment to determine whether the prescription is appropriate;]*

5 *“[(b) Document the patient visit and include notations regarding evidence of the patient’s previous*
6 *prescription from the patient’s licensed health care provider, information relating to the patient’s*
7 *treatment and other relevant information; and]*

8 *“[(c) Notify the patient’s primary care provider, and the licensed health care provider who made*
9 *the previous prescription, of the pharmacist’s dispensing of early refills, to the extent permitted by state*
10 *and federal law.]*

11 *“[(4) Notations in a record documenting evidence of a patient’s previous prescription under sub-*
12 *section (3)(b) of this section constitute verification of a valid prescription.]*

13 *“[(5) The State Board of Pharmacy shall adopt rules to carry out this section, including but not*
14 *limited to rules to allow a:]*

15 *“[(a) Pharmacist to apply for and obtain a registration number from the Drug Enforcement Ad-*
16 *ministration of the United States Department of Justice as a mid-level practitioner; and]*

17 *“[(b) Pharmacy to store on the premises medications for the treatment of opioid use disorder.]*

18 *“[(6) In adopting rules to carry out this section, the board shall consult with the Public Health and*
19 *Pharmacy Formulary Advisory Committee described in ORS 689.649.]*

20 **“(2) A pharmacist may register with the Drug Enforcement Administration of the United**
21 **States Department of Justice as a mid-level practitioner for the purpose of prescribing, dis-**
22 **persing and administering a controlled substance in Schedule II, III, IV or V that is a**
23 **medication for the treatment of opioid use disorder.**

24 **“(3) The board may adopt rules to carry out this section.**

25 **“SECTION 19.** Section 8, chapter 70, Oregon Laws 2024, is amended to read:

26 **“Sec. 8.** (1) As used in this section, ‘**pharmacy** prescription [drug] locker’ means a mechanical
27 device that serves as an extension of a retail drug outlet’s will call or point of sale area in which
28 completed patient-specific prescription drugs, devices and related supplies and nonprescription
29 drugs, devices and related supplies are stored for pickup.

30 *“[(2) A prescription drug locker located within this state and at the same physical address as the*
31 *retail drug outlet with which the prescription drug locker is associated:]*

32 *“[(a) Is considered part of the retail drug outlet and is not required to obtain a license or regis-*
33 *tration from the State Board of Pharmacy; and]*

34 *“[(b) Is not required to obtain a registration from the Drug Enforcement Administration of the*
35 *United States Department of Justice.]*

36 *“[(3) A prescription drug locker located within this state but at a physical address other than the*
37 *physical address of the retail drug outlet with which the prescription drug locker is associated is con-*
38 *sidered a remote dispensing site pharmacy and must obtain a registration from the Drug Enforcement*
39 *Administration in order to dispense controlled substances.]*

40 **“(2) A retail drug outlet may operate one or more pharmacy prescription lockers located**
41 **within this state that need not be at the same physical address as the retail drug outlet. A**
42 **pharmacy prescription locker operated pursuant to this section is considered part of the re-**
43 **tail drug outlet, and a separate license or registration from the State Board of Pharmacy is**
44 **not required.**

45 *“[(4)] (3) The board may adopt rules to carry out this section.*

1 “**SECTION 20.** Section 2, chapter 70, Oregon Laws 2024, is amended to read:

2 “**Sec. 2.** (1) As used in this section:

3 “(a) ‘Group health insurance’ has the meaning given that term in ORS 731.098.

4 “(b) ‘Health benefit plan’ has the meaning given that term in ORS 743B.005.

5 “(c) ‘Substance use disorder’ has the meaning given that term in the fifth edition of the Diag-
6 nostic and Statistical Manual of Mental Disorders published by the American Psychiatric Associ-
7 ation.

8 “(d) ‘Utilization review’ has the meaning given that term in ORS 743B.001.

9 “(2) Notwithstanding any provision of ORS 743A.168, an issuer of group health insurance or an
10 individual health benefit plan, other than a health plan that is subject to 42 U.S.C. 18011:

11 “(a) May not impose a requirement for prior authorization or any other form of utilization re-
12 view for the reimbursement of a covered medication approved by the United States Food and Drug
13 Administration that is prescribed for the purpose of treating a substance use disorder, including but
14 not limited to opioid addiction and opioid withdrawal.

15 “(b) Shall reimburse the cost of refills of medications described in paragraph (a) of this sub-
16 section if dispensed by a licensed health care professional who is legally authorized to dispense such
17 medications[, *including early refills described in section 7 of this 2024 Act*].

18 “(3) Subsection (2) of this section applies to any form of buprenorphine, including but not limited
19 to sublingual, tablet or injectable forms.

20 “(4) This section does not prohibit prior authorization or other utilization review for opioids or
21 opiates prescribed for a purpose other than medication-assisted treatment or the treatment of opiate
22 abuse or addiction.

23 “(5) This section does not prohibit utilization review for the purpose of:

24 “(a) Auditing claims for improper payments, fraud or abuse; or

25 “(b) Reasonable periodic redeterminations about the need for continuing care.

26 “(6) Coverage under this section may be subject to the same terms and conditions that apply to
27 other benefits under the plan except for utilization review as provided in subsection (2) of this sec-
28 tion.

29 “(7) This section is exempt from ORS 743A.001.

30 “**SECTION 21.** ORS 414.766, as amended by section 4, chapter 70, Oregon Laws 2024, is
31 amended to read:

32 “414.766. (1) Notwithstanding ORS 414.065 and 414.690, a coordinated care organization must
33 provide behavioral health services to its members that include but are not limited to all of the fol-
34 lowing:

35 “(a) For a member who is experiencing a behavioral health crisis:

36 “(A) A behavioral health assessment; and

37 “(B) Services that are medically necessary to transition the member to a lower level of care;

38 “(b) At least the minimum level of services that are medically necessary to treat a member’s
39 underlying behavioral health condition rather than a mere amelioration of current symptoms, such
40 as suicidal ideation or psychosis, as determined in a behavioral health assessment of the member
41 or specified in the member’s care plan;

42 “(c) Treatment of co-occurring behavioral health disorders or medical conditions in a coordi-
43 nated manner;

44 “(d) Treatment at the least intensive and least restrictive level of care that is safe and effective
45 and meets the needs of the individual’s condition;

1 “(e) For all level of care placement decisions, placement at the level of care consistent with a
2 member’s score or assessment using the relevant level of care placement criteria and guidelines;

3 “(f) If the level of placement described in paragraph (e) of this subsection is not available,
4 placement at the next higher level of care;

5 “(g) Treatment to maintain functioning or prevent deterioration;

6 “(h) Treatment for an appropriate duration based on the individual’s particular needs;

7 “(i) Treatment appropriate to the unique needs of children and adolescents;

8 “(j) Treatment appropriate to the unique needs of older adults;

9 “(k) Treatment that is culturally and linguistically appropriate;

10 “(L) Treatment that is appropriate to the unique needs of gay, lesbian, bisexual and transgender
11 individuals and individuals of any other minority gender identity or sexual orientation;

12 “(m) Coordinated care and case management as defined by the Department of Consumer and
13 Business Services by rule;

14 “(n) Mental health wellness appointments as prescribed by the Oregon Health Authority by rule;
15 and

16 “(o) Medications and refills of medications prescribed for the treatment of opioid use disorder
17 and any co-occurring substance use disorder or mental health condition, including [*early refills as*
18 *described in*] **medications and refills of medications prescribed pursuant to** section 7, chapter
19 70, Oregon Laws 2024.

20 “(2) If there is a disagreement about the level of care required by subsection (1)(e) or (f) of this
21 section, a coordinated care organization shall provide to the behavioral health treatment provider
22 full details of the coordinated care organization’s scoring or assessment, to the extent permitted by
23 the federal Health Insurance Portability and Accountability Act privacy regulations, 45 C.F.R. parts
24 160 and 164, ORS 192.553 to 192.581 or other state or federal laws limiting the disclosure of health
25 information.

26 “(3) The Oregon Health Authority shall adopt by rule a list of behavioral health services that
27 may not be subject to prior authorization.

28 “**SECTION 21a.** ORS 475.005, as amended by section 24, chapter 70, Oregon Laws 2024, and
29 section 98, chapter 73, Oregon Laws 2024, is amended to read:

30 “475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires
31 otherwise:

32 “(1) ‘Abuse’ means the repetitive excessive use of a drug short of dependence, without legal or
33 medical supervision, which may have a detrimental effect on the individual or society.

34 “(2) ‘Administer’ means the direct application of a controlled substance, whether by injection,
35 inhalation, ingestion or any other means, to the body of a patient or research subject by:

36 “(a) A practitioner or an authorized agent thereof; or

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

38 “(3) ‘Administration’ means the Drug Enforcement Administration of the United States Depart-
39 ment of Justice, or its successor agency.

40 “(4) ‘Agent’ means an authorized person who acts on behalf of or at the direction of a man-
41 ufacturer, distributor or dispenser. It does not include a common or contract carrier, public
42 warehouseman or employee of the carrier or warehouseman.

43 “(5) ‘Board’ means the State Board of Pharmacy.

44 “(6) ‘Controlled substance’:

45 “(a) Means a drug or its immediate precursor classified in Schedules I through V under the

1 federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of
2 the term ‘precursor’ in this paragraph does not control and is not controlled by the use of the term
3 ‘precursor’ in ORS 475.752 to 475.980.

4 “(b) Does not include:

5 “(A) The plant Cannabis family Cannabaceae;

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

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

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

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

11 “(F) Psilocybin or psilocin, but only if and to the extent that a person manufactures, delivers,
12 or possesses psilocybin, psilocin, or psilocybin products in accordance with the provisions of ORS
13 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

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

18 “(8) ‘Deliver’ or ‘delivery’ means the actual, constructive or attempted transfer of, or possession
19 with the intent to transfer, other than by administering or dispensing, from one person to another,
20 a controlled substance, whether or not there is an agency relationship.

21 “(9) ‘Device’ means instruments, apparatus or contrivances, including their components, parts
22 or accessories, intended:

23 “(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or
24 animals; or

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

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

29 “(11) ‘Dispenser’ means a practitioner who dispenses.

30 “(12) ‘Distributor’ means a person who delivers.

31 “(13) ‘Drug’ means:

32 “(a) Substances recognized as drugs in the official United States Pharmacopoeia, official
33 Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement
34 to any of them;

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

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

39 “(d) Substances intended for use as a component of any article specified in paragraph (a), (b)
40 or (c) of this subsection; however, the term does not include devices or their components, parts or
41 accessories.

42 “(14) ‘Electronically transmitted’ or ‘electronic transmission’ means a communication sent or
43 received through technological apparatuses, including computer terminals or other equipment or
44 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,
45 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

1 “(15) ‘Manufacture’ means the production, preparation, propagation, compounding, conversion
2 or processing of a controlled substance, either directly or indirectly by extraction from substances
3 of natural origin, or independently by means of chemical synthesis, or by a combination of extraction
4 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or
5 relabeling of its container, except that this term does not include the preparation or compounding
6 of a controlled substance:

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

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

11 “(16) ‘Person’ includes a government subdivision or agency, business trust, estate, trust or any
12 other legal entity.

13 “(17)(a) ‘Practitioner’ means a physician, dentist, veterinarian, scientific investigator, licensed
14 nurse practitioner, physician associate or other person licensed, registered or otherwise permitted
15 by law to dispense, conduct research with respect to or to administer a controlled substance in the
16 course of professional practice or research in this state *[but does not include a pharmacist or a*
17 *pharmacy]*.

18 “(b) ‘Practitioner’ does not include a pharmacist or pharmacy for purposes of the pre-
19 scription, dispensation or administration of a controlled substance that is not:

20 “(A) Listed in Schedule II, III, IV or V; and

21 “(B) A medication for the treatment of opioid use disorder.

22 “(18) ‘Prescription’ means a written, oral or electronically transmitted direction, given by a
23 practitioner for the preparation and use of a drug. When the context requires, ‘prescription’ also
24 means the drug prepared under such written, oral or electronically transmitted direction. Any label
25 affixed to a drug prepared under written, oral or electronically transmitted direction shall promi-
26 nently display a warning that the removal thereof is prohibited by law.

27 “(19) ‘Production’ includes the manufacture, planting, cultivation, growing or harvesting of a
28 controlled substance.

29 “(20) ‘Research’ means an activity conducted by the person registered with the federal Drug
30 Enforcement Administration pursuant to a protocol approved by the United States Food and Drug
31 Administration.

32 “(21) ‘Ultimate user’ means a person who lawfully possesses a controlled substance for the use
33 of the person or for the use of a member of the household of the person or for administering to an
34 animal owned by the person or by a member of the household of the person.

35 “(22) ‘Usable quantity’ means:

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

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

41 “(23) ‘Within 30 feet,’ ‘within 500 feet’ and ‘within 1,000 feet’ mean a straight line measurement
42 in a radius extending for the specified number of feet or less in every direction from a specified lo-
43 cation or from any point on the boundary line of a specified unit of property.

44 “**SECTION 21b.** ORS 475.188 is amended to read:

45 “475.188. (1)(a) Prescription drug orders may be transmitted by electronic means from a practi-

1 tioner authorized to prescribe drugs directly to the dispensing pharmacist.

2 “(b) A prescription drug order for medication for the treatment of opioid use disorder
3 that is issued by a practitioner who is a pharmacist may be electronically transmitted to a
4 dispensing pharmacist in accordance with the requirements of this section if the prescribing
5 pharmacist is not the dispensing pharmacist.

6 “(2) All prescription drug orders communicated by way of electronic transmission [shall] **must**:

7 “(a) Be transmitted only by an authorized practitioner;

8 “(b) Be transmitted directly to a pharmacist in a pharmacy of the patient’s choice with no in-
9 tervening person having access to the prescription drug order;

10 “(c) Specify the prescribing practitioner’s telephone number for verbal confirmation, the time
11 and date of transmission, the identity of the pharmacy intended to receive the transmission and all
12 other information required for a prescription by federal or state law; and

13 “(d) Be traceable to the prescribing practitioner by an electronic signature or other secure
14 method of validation.

15 “(3) An electronic transmission of a prescription drug order [shall] **must** be stored by electronic
16 means or reduced promptly to writing, filed by the pharmacy and retained in conformity with the
17 requirements of ORS 475.165.

18 “(4) The dispensing pharmacist shall exercise professional judgment regarding the accuracy,
19 validity and authenticity of an electronically transmitted prescription drug order.

20 “(5) All equipment for transmission, storage or receipt of electronically transmitted prescription
21 drug orders [shall] **must** be maintained to protect against unauthorized access.

22 “(6) A pharmacist, pharmacy or pharmacy department [shall] **may** not enter into an agreement
23 with a practitioner or health care facility concerning the provision of any electronic transmission
24 equipment or apparatus that would adversely affect a patient’s freedom to select the pharmacy or
25 pharmacy department of the patient’s choice.

26 “(7) A pharmacist, pharmacy or pharmacy department [shall] **may** not provide any electronic
27 equipment or apparatus to a practitioner or health care facility for the purpose of providing an in-
28 centive to the practitioner or health care facility to refer patients to a particular pharmacy or
29 pharmacy department.

30 “(8) There [shall be no] **may not be an** additional charge to the patient because the prescription
31 drug order was electronically transmitted.

32 “(9) Nothing in this section shall be construed as authorizing the electronic transmission of a
33 prescription drug order when a written prescription is required under ORS 127.815, 137.473, 169.750
34 or 453.025.”.

35 On page 20, line 12, after “2024” insert “, or rules adopted under section 7, chapter 70, Oregon
36 Laws 2024”.

37 On page 24, line 9, after “2024” insert “, or rules adopted under section 7, chapter 70, Oregon
38 Laws 2024”.

39 On page 26, delete lines 34 through 36.

40 In line 37, delete “(b)” and insert “(a)”.

41 In line 38, delete “(c)” and insert “(b)” and after “proceedings” delete the rest of the line.

42 In line 39, delete “subject of the agreement”.

43 On page 27, after line 11, insert:

44 “(a) If the court finds that the person has fulfilled the terms and conditions of the probation
45 agreement, discharge the person and dismiss the charge that is the subject of the agreement as de-

scribed in subsection (4) of this section;”.

In line 12, delete “(a)” and insert “(b)”.

Delete lines 14 through 20 and insert:

“(c) Resume the criminal proceedings in accordance with the waiver of rights in the probation agreement. If the court proceeds under this paragraph, the person may not contest the sufficiency of the evidence establishing the person’s guilt of the offenses in the accusatory instrument.

“**SECTION 26.** Section 54, chapter 70, Oregon Laws 2024, is amended to read:

“**Sec. 54.** (1) Within 60 days of receiving verification from a deflection program coordinator that a person has completed a deflection program, after being referred to the program due to the alleged commission of unlawful possession of a controlled substance constituting a drug enforcement misdemeanor as described in section 35, *[of this 2024 Act]* **chapter 70, Oregon Laws 2024**, a law enforcement agency or district attorney shall seal all records related to the person’s participation in the program, the alleged conduct that resulted in the referral to the program and, if applicable, the citation for the offense **and related criminal history records**, and a court shall seal all electronic records that may have been created concerning the offense. Records sealed under this subsection are not subject to disclosure under ORS 192.311 to 192.478 or any other law.

“(2) After two years have elapsed from the date *[that a person is cited]* **of an offense** for unlawful possession of a controlled substance constituting a drug enforcement misdemeanor as described in section 35, *[of this 2024 Act]* **chapter 70, Oregon Laws 2024**, and if no further prosecutorial action on the citation **for the offense** has occurred, within 60 days after the conclusion of the two-year time period **from the date of the offense**, any law enforcement agency or district attorney that possesses records related to the citation, **including related criminal history records**, and any court that possesses electronic records related to the citation, shall seal the records. Records sealed under this subsection are not subject to disclosure under ORS 192.311 to 192.478 or any other law.

“(3)(a) Notwithstanding ORS 137.225, when a person successfully completes a probation agreement and the court discharges the person and dismisses the proceedings against the person under section 52 (4), *[of this 2024 Act]* **chapter 70, Oregon Laws 2024**, the court shall, within 90 days after the dismissal, enter an order sealing all records related to the arrest or citation and the criminal proceedings. **The court may enter an order sealing all records related to any other charges that were dismissed or removed from the charging instrument, other than records related to a diversion-related arrest or citation, if no other convictions exist in the case.** The clerk of the court shall forward a copy of the order, or a certified copy if requested, to such agencies as directed by the court.

“(b) Notwithstanding ORS 137.225 **and subsection (4) of this section**, when the court receives notice that a defendant has successfully completed a term of probation for unlawful possession of a controlled substance constituting a drug enforcement misdemeanor as described in section 35, *[of this 2024 Act]* **chapter 70, Oregon Laws 2024**, the court shall, within 90 days after the notification, enter an order sealing all records related to the arrest or citation and the criminal proceedings. **The court may enter an order sealing all records related to any other charges that were dismissed or removed from the charging instrument, other than records related to a diversion-related arrest or citation, if no other convictions exist in the case.** The clerk of the court shall forward a copy of the order, or a certified copy if requested, to such agencies as directed by the court.

“(c) Notwithstanding ORS 137.225, when a person is acquitted of unlawful possession of

1 a controlled substance constituting a drug enforcement misdemeanor as described in section
2 35, chapter 70, Oregon Laws 2024, the court shall, within 90 days after the acquittal, enter
3 an order sealing all records related to the arrest or citation and the criminal proceedings.
4 The court may enter an order sealing all records related to any other charges that were
5 dismissed or removed from the charging instrument, other than records related to a
6 diversion-related arrest or citation, if no other convictions exist in the case. The clerk of the
7 court shall forward a copy of the order, or a certified copy if requested, to such agencies as
8 directed by the court.

9 “(4)(a) Notwithstanding ORS 137.225, and except as provided in paragraph (b) of this sub-
10 section, after three years have passed from the date of entry of judgment of conviction for unlawful
11 possession of a controlled substance constituting a drug enforcement misdemeanor as described in
12 section 35, [of this 2024 Act] chapter 70, Oregon Laws 2024, the court shall, within 60 days after
13 the [three year] three-year period has concluded, enter an order sealing all records related to the
14 arrest or citation, charges and conviction. The court may enter an order sealing all records
15 related to any other charges that were dismissed or removed from the charging instrument,
16 other than records related to a diversion-related arrest or citation, if no other convictions
17 exist in the case. The clerk of the court shall forward a copy of the order, or a certified copy if
18 requested, to such agencies as directed by the court.

19 “(b) If the court issues a warrant on a case with a conviction for unlawful possession of
20 a controlled substance constituting a drug enforcement misdemeanor as described in section
21 35, chapter 70, Oregon Laws 2024, the time period between the issuance of the warrant and
22 the date on which the person reappears in court on the case and the warrant is no longer
23 active does not count towards the three-year time period described in paragraph (a) of this
24 subsection.

25 “[(b)] (c) Notwithstanding ORS 137.225, after three years have passed since the dismissal of [a]
26 an unlawful possession of a controlled substance offense constituting a drug enforcement
27 misdemeanor as described in section 35, [of this 2024 Act] chapter 70, Oregon Laws 2024, if the
28 court has not sealed records of the offense under subsection (2) or (3) of this section, the court shall,
29 within 60 days after the [three year] three-year period has concluded, enter an order sealing all
30 records related to the arrest or citation and any criminal proceedings. The court may enter an
31 order sealing all records related to any other charges that were dismissed or removed from
32 the charging instrument, other than records related to a diversion-related arrest or citation,
33 if no other convictions exist in the case. The clerk of the court shall forward a copy of the order,
34 or a certified copy if requested, to such agencies as directed by the court.

35 “(5) If a case involves records related to two or more unlawful possession of a controlled
36 substance offenses constituting a drug enforcement misdemeanor as described in section 35,
37 chapter 70, Oregon Laws 2024, and the records related to each offense are eligible for sealing
38 under this section at different times, the court may not enter an order sealing records re-
39 lated to any drug enforcement misdemeanor in the case until all records related to drug
40 enforcement misdemeanors in the case are eligible to be sealed.

41 “(6) The court may not enter an order under this section sealing records related to un-
42 lawful possession of a controlled substance constituting a drug enforcement misdemeanor
43 as described in section 35, chapter 70, Oregon Laws 2024, while a case has an active warrant.

44 “(7)(a) Notwithstanding subsections (1) to (5) of this section and any other statute au-
45 thorizing a court to enter an order sealing records related to unlawful possession of a con-

1 trolled substance constituting a drug enforcement misdemeanor as described in section 35,
2 chapter 70, Oregon Laws 2024, if a case includes records other than those related to unlawful
3 possession of a controlled substance constituting a drug enforcement misdemeanor, the
4 court may not enter an order sealing records related to unlawful possession of a controlled
5 substance constituting a drug enforcement misdemeanor in the case until the court enters
6 an order setting aside or expunging all other records in the case.

7 “(b) When a court enters an order setting aside or expunging all records in a case other
8 than records pertaining to unlawful possession of a controlled substance constituting a drug
9 enforcement misdemeanor as described in section 35, chapter 70, Oregon Laws 2024, under
10 any statute authorizing such an order:

11 “(A) If all records related to unlawful possession of a controlled substance constituting
12 a drug enforcement misdemeanor in the case are eligible for sealing under this section, the
13 court may enter an order sealing all records in the case under one order.

14 “(B) Notwithstanding subsections (1) to (5) of this section, if the records related to un-
15 lawful possession of a controlled substance constituting a drug enforcement misdemeanor
16 are not eligible for sealing under this section, the court may enter an order sealing the re-
17 cords if the court finds that the sealing would be in the best interests of the person who is
18 the subject of the records and the public.

19 “[*(5)(a)*] (8)(a) The State Court Administrator shall develop a standardized form for obtaining the
20 information necessary for all entities to seal records as required by [*subsections (3) and (4) of*] this
21 section.

22 “(b) When a person [*enters into a probation agreement under section 52 of this 2024 Act, or is*
23 *convicted of*] **is charged with** unlawful possession of a controlled substance constituting a drug
24 enforcement misdemeanor as described in section 35, [*of this 2024 Act*] **chapter 70, Oregon Laws**
25 **2024**, the district attorney and the defense attorney shall ensure that a copy of the form described
26 in paragraph (a) of this subsection is completed and submitted to the court.

27 “(9) **As used in this section, ‘diversion-related arrest or citation’ means an arrest or ci-**
28 **tation for driving while under the influence of intoxicants for a charge that was dismissed**
29 **as the result of the person’s successful completion of a diversion agreement described in**
30 **ORS 813.200.**

31 “**SECTION 27.** Section 76, chapter 70, Oregon Laws 2024, is amended to read:

32 “**Sec. 76.** (1) As used in this section, ‘deflection program’ means a collaborative program be-
33 tween law enforcement agencies and behavioral health entities that assists individuals who may
34 have substance use disorder, another behavioral health disorder or co-occurring disorders, to create
35 community-based pathways to treatment, recovery support services, housing, case management or
36 other services.

37 “(2) The Oregon Behavioral Health Deflection Program is established within the Improving
38 People’s Access to Community-based Treatment, Supports and Services Grant Review Committee
39 established under ORS 430.234. The program consists of grants awarded by the committee to coun-
40 ties and federally recognized tribal governments to fund deflection programs.

41 “(3)(a) The purpose of the program described in this section is to:

42 “(A) Address the need for more deflection programs to assist individuals whose behavioral
43 health conditions, including substance use disorder, lead to interactions with law enforcement,
44 incarceration, conviction and other engagement with the criminal justice system.

45 “(B) Track and report data concerning deflection program outcomes in order to determine the

1 best practices for deflection programs within this state.

2 “(b) ORS 430.230 to 430.236 do not apply to the program described in this section.

3 “(4)(a) The committee shall develop a grant application process for awarding grants under this
4 section.

5 “(b) An application for a grant under this section may be submitted by a county or the designee
6 of a county, or by a tribal government or designee of a tribal government. Only one application per
7 county may be submitted, but the application may request funding multiple programs within a
8 county.

9 “(c) Prior to submitting an application for a grant under this section, the applicant shall coor-
10 dinate with all partners of the development and administration of the proposed deflection program
11 to ensure that the partners have the resources necessary to implement the deflection program. The
12 partners shall include at least a district attorney, a law enforcement agency, a community mental
13 health program established under ORS 430.620 and a provider from a Behavioral Health Resource
14 Network established under ORS 430.389. Partners may also include a treatment provider, a local
15 mental health authority, a tribal government, a peer support organization, a court or a local gov-
16 ernment body.

17 “(d) An application for a grant under this section must contain:

18 “(A) A description of the coordination with program partners required by paragraph (c) of this
19 subsection that has occurred;

20 “(B) A description of the individuals who would be eligible for the program and what qualifies
21 as a successful outcome, formulated in cooperation with the program partners described in para-
22 graph (c) of this subsection;

23 “(C) A description of how the program for which the applicant is seeking funding is culturally
24 and linguistically responsive, trauma-informed and evidence-based;

25 “(D) A description of a plan to address language access barriers when communicating program
26 referral options and program procedures to non-English speaking individuals; and

27 “(E) A description of how the program coordinator will communicate with program partners
28 concerning persons participating in the program and any other matter necessary for the adminis-
29 tration of the program.

30 “(5) To be eligible for funding under this section, a deflection program:

31 “(a) Must be coordinated by or in consultation with a community mental health program, a local
32 mental health authority or a federally recognized tribal government;

33 “(b) Must have a coordinator with the following program coordinator duties:

34 “(A) Convening deflection program partners as needed for the operation of the program;

35 “(B) Managing grant program funds awarded under this section; and

36 “(C) Tracking and reporting data required by the Oregon Criminal Justice Commission under
37 section 37, [of this 2024 Act] **chapter 70, Oregon Laws 2024;**

38 “(c) Must involve the partners described in subsection (4)(c) of this section; and

39 “(d) May involve a partnership with one or more of the following entities:

40 “(A) A first responder agency other than a law enforcement agency;

41 “(B) A community provider;

42 “(C) A treatment provider;

43 “(D) A community-based organization;

44 “(E) A case management provider;

45 “(F) A recovery support services provider; or

1 “(G) Any other individual or entity deemed necessary by the program coordinator to carry out
2 the purposes of the deflection program, including individuals with lived experience with substance
3 use disorder, a behavioral health disorder or co-occurring disorders.

4 “(6) During a grant application period established by the committee, the maximum proportion
5 of grant funds available to an applicant shall be determined as follows:

6 “(a) The proportion of grant funds available to an applicant other than a tribal government shall
7 be determined [*based on the county formula share employed by the Oversight and Accountability*
8 *Council established under ORS 430.388*] **by a formula established by the commission**, but an ap-
9 plicant may not receive less than \$150,000.

10 “(b) The committee shall determine the proportion of funds available to an applicant that is a
11 federally recognized tribal government.

12 “(7)(a) Grant funds awarded under this section may be used for:

13 “(A) Deflection program expenses including but not limited to law enforcement employees, dep-
14 uty district attorneys and behavioral health treatment workers, including peer navigators and mo-
15 bile crisis and support services workers.

16 “(B) Behavioral health workforce development.

17 “(C) Capital construction of behavioral health treatment infrastructure.

18 “(b) Notwithstanding paragraph (a) of this subsection, the committee may award planning grants
19 for the development of deflection programs.

20 “(c) The committee may allocate up to three percent of program funds to support grantee data
21 collection and analysis or evaluation of outcome measures.

22 “(8) The Oregon Criminal Justice Commission shall provide staff support to the grant program.

23 “(9) The committee and the commission may adopt rules to carry out the provisions of this
24 section.

25 26 “PRE-PLEA SPECIALTY COURT PROBATION AGREEMENTS

27
28 “**SECTION 28.** ORS 137.532 is amended to read:

29 “137.532. (1)(a) Whenever a person is charged with a misdemeanor or a Class C felony, other
30 than driving while under the influence of intoxicants, and has been formally accepted into a spe-
31 cialty court, the court, with the consent of the district attorney and the person, may defer further
32 proceedings and place the person on probation. The terms of the probation shall be defined by a
33 probation agreement.

34 “(b) A probation agreement carries the understanding that if the defendant fulfills the terms of
35 the agreement, the criminal charges filed against the defendant will be dismissed with prejudice.

36 “(c) The agreement must contain a waiver of the following rights of the defendant with respect
37 to each criminal charge:

38 “(A) The right to a speedy trial and trial by jury;

39 “(B) The right to present evidence on the defendant’s behalf;

40 “(C) The right to confront and cross-examine witnesses against the defendant;

41 “(D) The right to contest evidence presented against the defendant, including the right to object
42 to hearsay evidence; and

43 “(E) The right to appeal from a judgment of conviction resulting from an adjudication of guilt
44 entered under subsection (2) of this section, unless the appeal is based on an allegation that the
45 sentence exceeds the maximum allowed by law or constitutes cruel and unusual punishment.

1 “(d) The agreement must include a requirement that the defendant pay any restitution owed to
2 the victim as determined by the court, and any fees for court-appointed counsel ordered by the court
3 under ORS 135.050.

4 “(e) The agreement may not contain a requirement that the defendant enter a plea of guilty or
5 no contest on any charge in the accusatory instrument.

6 “(f) Entering into a probation agreement does not constitute an admission of guilt and is not
7 sufficient to warrant a finding or adjudication of guilt by a court.

8 “(g) Police reports or other documents associated with the criminal charges in a court file other
9 than the probation agreement may not be admitted into evidence, and do not establish a factual
10 basis for finding the defendant guilty, unless the court resumes criminal proceedings and enters an
11 adjudication of guilt under subsection (2) of this section.

12 “(2) Upon violation of a term or condition of the probation agreement, the court may resume the
13 criminal proceedings [*and may find the defendant guilty of the offenses in the accusatory instrument*]
14 in accordance with the waiver of rights in the probation agreement. The defendant may not contest
15 the sufficiency of the evidence establishing the defendant’s guilt of the offenses in the accusatory
16 instrument.

17 “(3) Upon fulfillment of the terms and conditions of the probation agreement, the court shall
18 discharge the person and dismiss the proceedings against the person. Discharge and dismissal under
19 this section shall be without adjudication of guilt and is not a conviction for purposes of this section
20 or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There
21 may be only one discharge and dismissal under this section with respect to any person.

22 “(4) In the event that the period of probation under this section expires, but the terms and
23 conditions of the probation agreement have not been fulfilled and no probation violation proceeding
24 was initiated prior to the expiration of the period of probation, the court may not discharge the
25 person and dismiss the proceedings against the person. The court shall instead issue an order re-
26 quiring the person to appear and to show cause why the court should not enter an adjudication of
27 guilt as described in subsection (2) of this section due to the failure of the person to fulfill the terms
28 and conditions of the probation agreement prior to expiration of the period of probation. At the
29 hearing on the order to show cause, after considering any evidence or argument from the district
30 attorney and the person, the court may:

31 “(a) **If the court finds that the person has fulfilled the terms and conditions of the pro-**
32 **bation agreement, discharge the person and dismiss the proceedings against the person as**
33 **described in subsection (3) of this section;**

34 “[*(a)*] (b) Order a new period of probation to allow the person to fulfill the terms and conditions
35 of the probation agreement; or

36 “[*(b)*] *Enter an adjudication of guilt as described in subsection (2) of this section.*]

37 “(c) **Resume the criminal proceedings in accordance with the waiver of rights in the**
38 **probation agreement. If the court proceeds under this paragraph, the person may not contest**
39 **the sufficiency of the evidence establishing the person’s guilt of the offenses in the**
40 **accusatory instrument.**

41 “(5) Nothing in this section is intended to restrict a person’s participation in a specialty court
42 or conditional discharge under ORS 475.245.

43 “(6) As used in this section, ‘specialty court’ has the meaning given that term in ORS 137.680.

44
45 “CAPTIONS

1 **SECTION 29.** The unit captions used in this 2025 Act are provided only for the conven-
2 ience of the reader and do not become part of the statutory law of this state or express any
3 legislative intent in the enactment of this 2025 Act.

4
5 **“EMERGENCY CLAUSE**

6
7 **SECTION 30.** This 2025 Act being necessary for the immediate preservation of the public
8 peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect
9 on its passage.”.

10 _____