

SB 236-2
(LC 2002)
5/21/25 (JLM/ps)

Requested by JOINT COMMITTEE ON ADDICTION AND COMMUNITY SAFETY RESPONSE

**PROPOSED AMENDMENTS TO
SENATE BILL 236**

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

6 On page 10, delete lines 19 through 21.

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

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

10 In line 24, delete “accusatory instrument”.

11 After line 40, insert:

12 “(a) If the court finds that the person has fulfilled the terms and condi-
13 tions of the probation agreement, discharge the person and dismiss the pro-
14 ceedings against the person as described in subsection (3) of this section;”.

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

16 Delete line 43 and insert:

17 “(c) Resume the criminal proceedings in accordance with the waiver of
18 rights in the probation agreement. If the court proceeds under this para-
19 graph, the person may not contest the sufficiency of the evidence establish-
20 ing the person’s guilt of the offenses in the accusatory instrument.”.

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

1 “by section 9”.

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

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

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

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

7 “[*(a) ‘Early refill’ means:*]

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

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

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

14 “[*(2)*] (1) A pharmacist may prescribe, [*and*] dispense **and administer** to
15 a patient[, *to the extent permitted by federal law, an early refill of a*]
16 medication for the treatment of opioid use disorder in accordance with
17 [*subsection (3) of this section.*]:

18 **“(a) A statewide drug therapy management protocol developed, in**
19 **consultation with a physician with a background in addiction medi-**
20 **cine, by the Public Health and Pharmacy Formulary Advisory Com-**
21 **mittee convened under ORS 689.649 and adopted by State Board of**
22 **Pharmacy rule pursuant to ORS 689.645; or**

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

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

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

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

1 *information; and]*

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

5 *“[(4) Notations in a record documenting evidence of a patient’s previous*
6 *prescription under subsection (3)(b) of this section constitute verification of a*
7 *valid prescription.]*

8 *“[(5) The State Board of Pharmacy shall adopt rules to carry out this sec-*
9 *tion, including but not limited to rules to allow a:]*

10 *“[(a) Pharmacist to apply for and obtain a registration number from the*
11 *Drug Enforcement Administration of the United States Department of Justice*
12 *as a mid-level practitioner; and]*

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

15 *“[(6) In adopting rules to carry out this section, the board shall consult*
16 *with the Public Health and Pharmacy Formulary Advisory Committee de-*
17 *scribed in ORS 689.649.]*

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

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

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

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

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

4 “[*(a) Is considered part of the retail drug outlet and is not required to ob-*
5 *tain a license or registration from the State Board of Pharmacy; and*]

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

8 “[*(3) A prescription drug locker located within this state but at a physical*
9 *address other than the physical address of the retail drug outlet with which*
10 *the prescription drug locker is associated is considered a remote dispensing*
11 *site pharmacy and must obtain a registration from the Drug Enforcement Ad-*
12 *ministration in order to dispense controlled substances.*]

13 **“(2) A retail drug outlet may operate one or more pharmacy pre-**
14 **scription lockers located within this state that need not be at the same**
15 **physical address as the retail drug outlet. A pharmacy prescription**
16 **locker operated pursuant to this section is considered part of the retail**
17 **drug outlet, and a separate license or registration from the State**
18 **Board of Pharmacy is not required.**

19 “[*(4)*] **(3)** The board may adopt rules to carry out this section.

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

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

23 “(a) ‘Group health insurance’ has the meaning given that term in ORS
24 731.098.

25 “(b) ‘Health benefit plan’ has the meaning given that term in ORS
26 743B.005.

27 “(c) ‘Substance use disorder’ has the meaning given that term in the fifth
28 edition of the Diagnostic and Statistical Manual of Mental Disorders pub-
29 lished by the American Psychiatric Association.

30 “(d) ‘Utilization review’ has the meaning given that term in ORS

1 743B.001.

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

5 “(a) May not impose a requirement for prior authorization or any other
6 form of utilization review for the reimbursement of a covered medication
7 approved by the United States Food and Drug Administration that is pre-
8 scribed for the purpose of treating a substance use disorder, including but
9 not limited to opioid addiction and opioid withdrawal.

10 “(b) Shall reimburse the cost of refills of medications described in para-
11 graph (a) of this subsection if dispensed by a licensed health care profes-
12 sional who is legally authorized to dispense such medications[, *including*
13 *early refills described in section 7 of this 2024 Act*].

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

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

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

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

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

23 “(6) Coverage under this section may be subject to the same terms and
24 conditions that apply to other benefits under the plan except for utilization
25 review as provided in subsection (2) of this section.

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

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

29 “414.766. (1) Notwithstanding ORS 414.065 and 414.690, a coordinated care
30 organization must provide behavioral health services to its members that

1 include but are not limited to all of the following:

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

3 “(A) A behavioral health assessment; and

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

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

11 “(c) Treatment of co-occurring behavioral health disorders or medical
12 conditions in a coordinated manner;

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

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

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

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

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

23 “(i) Treatment appropriate to the unique needs of children and adoles-
24 cents;

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

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

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

30 “(m) Coordinated care and case management as defined by the Department

1 of Consumer and Business Services by rule;

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

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

9 “(2) If there is a disagreement about the level of care required by sub-
10 section (1)(e) or (f) of this section, a coordinated care organization shall
11 provide to the behavioral health treatment provider full details of the coor-
12 dinated care organization’s scoring or assessment, to the extent permitted
13 by the federal Health Insurance Portability and Accountability Act privacy
14 regulations, 45 C.F.R. parts 160 and 164, ORS 192.553 to 192.581 or other state
15 or federal laws limiting the disclosure of health information.

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

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

21 “475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless
22 the context requires otherwise:

23 “(1) ‘Abuse’ means the repetitive excessive use of a drug short of de-
24 pendence, without legal or medical supervision, which may have a detri-
25 mental effect on the individual or society.

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

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

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

1 “(3) ‘Administration’ means the Drug Enforcement Administration of the
2 United States Department of Justice, or its successor agency.

3 “(4) ‘Agent’ means an authorized person who acts on behalf of or at the
4 direction of a manufacturer, distributor or dispenser. It does not include a
5 common or contract carrier, public warehouseman or employee of the carrier
6 or warehouseman.

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

8 “(6) ‘Controlled substance’:

9 “(a) Means a drug or its immediate precursor classified in Schedules I
10 through V under the federal Controlled Substances Act, 21 U.S.C. 811 to 812,
11 as modified under ORS 475.035. The use of the term ‘precursor’ in this para-
12 graph does not control and is not controlled by the use of the term
13 ‘precursor’ in ORS 475.752 to 475.980.

14 “(b) Does not include:

15 “(A) The plant Cannabis family Cannabaceae;

16 “(B) Any part of the plant Cannabis family Cannabaceae, whether grow-
17 ing or not;

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

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

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

23 “(F) Psilocybin or psilocin, but only if and to the extent that a person
24 manufactures, delivers, or possesses psilocybin, psilocin, or psilocybin pro-
25 ducts in accordance with the provisions of ORS 475A.210 to 475A.722 and
26 rules adopted under ORS 475A.210 to 475A.722.

27 “(7) ‘Counterfeit substance’ means a controlled substance or its container
28 or labeling, which, without authorization, bears the trademark, trade name,
29 or other identifying mark, imprint, number or device, or any likeness thereof,
30 of a manufacturer, distributor or dispenser other than the person who in fact

1 manufactured, delivered or dispensed the substance.

2 “(8) ‘Deliver’ or ‘delivery’ means the actual, constructive or attempted
3 transfer of, or possession with the intent to transfer, other than by admin-
4 istering or dispensing, from one person to another, a controlled substance,
5 whether or not there is an agency relationship.

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

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

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

12 “(10) ‘Dispense’ means to deliver a controlled substance to an ultimate
13 user or research subject by or pursuant to the lawful order of a practitioner,
14 and includes the prescribing, administering, packaging, labeling or com-
15 pounding necessary to prepare the substance for that delivery.

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

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

18 “(13) ‘Drug’ means:

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

22 “(b) Substances intended for use in the diagnosis, cure, mitigation, treat-
23 ment or prevention of disease in humans or animals;

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

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

29 “(14) ‘Electronically transmitted’ or ‘electronic transmission’ means a
30 communication sent or received through technological apparatuses, including

1 computer terminals or other equipment or mechanisms linked by telephone
2 or microwave relays, or any similar apparatus having electrical, digital,
3 magnetic, wireless, optical, electromagnetic or similar capabilities.

4 “(15) ‘Manufacture’ means the production, preparation, propagation, com-
5 pounding, conversion or processing of a controlled substance, either directly
6 or indirectly by extraction from substances of natural origin, or independ-
7 ently by means of chemical synthesis, or by a combination of extraction and
8 chemical synthesis, and includes any packaging or repackaging of the sub-
9 stance or labeling or relabeling of its container, except that this term does
10 not include the preparation or compounding of a controlled substance:

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

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

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

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

24 “(b) ‘Practitioner’ does not include a pharmacist or pharmacy for
25 purposes of the prescription, dispensation or administration of a con-
26 trolled substance that is not:

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

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

29 “(18) ‘Prescription’ means a written, oral or electronically transmitted
30 direction, given by a practitioner for the preparation and use of a drug.

1 When the context requires, ‘prescription’ also means the drug prepared under
2 such written, oral or electronically transmitted direction. Any label affixed
3 to a drug prepared under written, oral or electronically transmitted direction
4 shall prominently display a warning that the removal thereof is prohibited
5 by law.

6 “(19) ‘Production’ includes the manufacture, planting, cultivation, grow-
7 ing or harvesting of a controlled substance.

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

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

15 “(22) ‘Usable quantity’ means:

16 “(a) An amount of a controlled substance that is sufficient to physically
17 weigh independent of its packaging and that does not fall below the uncer-
18 tainty of the measuring scale; or

19 “(b) An amount of a controlled substance that has not been deemed
20 unweighable, as determined by a Department of State Police forensic labo-
21 ratory, due to the circumstances of the controlled substance.

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

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

27 “475.188. (1)(a) Prescription drug orders may be transmitted by electronic
28 means from a practitioner authorized to prescribe drugs directly to the dis-
29 pensing pharmacist.

30 **“(b) A prescription drug order for medication for the treatment of**

1 **opioid use disorder that is issued by a practitioner who is a pharmacist**
2 **may be electronically transmitted to a dispensing pharmacist in ac-**
3 **cordance with the requirements of this section if the prescribing**
4 **pharmacist is not the dispensing pharmacist.**

5 “(2) All prescription drug orders communicated by way of electronic
6 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
9 patient’s choice with no intervening person having access to the prescription
10 drug order;

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

15 “(d) Be traceable to the prescribing practitioner by an electronic signa-
16 ture or other secure method of validation.

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

20 “(4) The dispensing pharmacist shall exercise professional judgment re-
21 garding the accuracy, validity and authenticity of an electronically trans-
22 mitted prescription drug order.

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

26 “(6) A pharmacist, pharmacy or pharmacy department [*shall*] **may** not
27 enter into an agreement with a practitioner or health care facility concern-
28 ing the provision of any electronic transmission equipment or apparatus that
29 would adversely affect a patient’s freedom to select the pharmacy or phar-
30 macy department of the patient’s choice.

1 “(7) A pharmacist, pharmacy or pharmacy department [*shall*] **may** not
2 provide any electronic equipment or apparatus to a practitioner or health
3 care facility for the purpose of providing an incentive to the practitioner or
4 health care facility to refer patients to a particular pharmacy or pharmacy
5 department.

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

8 “(9) Nothing in this section shall be construed as authorizing the elec-
9 tronic transmission of a prescription drug order when a written prescription
10 is required under ORS 127.815, 137.473, 169.750 or 453.025.”

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

13 On page 24, line 9, after “2024” insert “, or rules adopted under section
14 7, chapter 70, Oregon Laws 2024”.

15 On page 26, delete lines 34 through 36.

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

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

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

20 On page 27, after line 11, insert:

21 “(a) If the court finds that the person has fulfilled the terms and condi-
22 tions of the probation agreement, discharge the person and dismiss the
23 charge that is the subject of the agreement as described in subsection (4) of
24 this section;”.

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

26 Delete lines 14 through 20 and insert:

27 “(c) Resume the criminal proceedings in accordance with the waiver of
28 rights in the probation agreement. If the court proceeds under this para-
29 graph, the person may not contest the sufficiency of the evidence establish-
30 ing the person’s guilt of the offenses in the accusatory instrument.

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

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

15 “(2) After two years have elapsed from the date *[that a person is cited]*
16 **of an offense** for unlawful possession of a controlled substance constituting
17 a drug enforcement misdemeanor as described in section 35, *[of this 2024*
18 *Act]* **chapter 70, Oregon Laws 2024,** and if no further prosecutorial action
19 on the citation **for the offense** has occurred, within 60 days after the con-
20 clusion of the two-year time period **from the date of the offense,** any law
21 enforcement agency or district attorney that possesses records related to the
22 citation, **including related criminal history records,** and any court that
23 possesses electronic records related to the citation, shall seal the records.
24 Records sealed under this subsection are not subject to disclosure under ORS
25 192.311 to 192.478 or any other law.

26 “(3)(a) Notwithstanding ORS 137.225, when a person successfully com-
27 pletes a probation agreement and the court discharges the person and dis-
28 misses the proceedings against the person under section 52 (4), *[of this 2024*
29 *Act]* **chapter 70, Oregon Laws 2024,** the court shall, within 90 days after
30 the dismissal, enter an order sealing all records related to the arrest or ci-

1 tation and the criminal proceedings. **The court may enter an order sealing**
2 **all records related to any other charges that were dismissed or re-**
3 **moved from the charging instrument, other than records related to a**
4 **diversion-related arrest or citation, if no other convictions exist in the**
5 **case.** The clerk of the court shall forward a copy of the order, or a certified
6 copy if requested, to such agencies as directed by the court.

7 “(b) Notwithstanding ORS 137.225 **and subsection (4) of this section,**
8 when the court receives notice that a defendant has successfully completed
9 a term of probation for unlawful possession of a controlled substance con-
10 stituting a drug enforcement misdemeanor as described in section 35, [*of this*
11 *2024 Act*] **chapter 70, Oregon Laws 2024,** the court shall, within 90 days
12 after the notification, enter an order sealing all records related to the arrest
13 or citation and the criminal proceedings. **The court may enter an order**
14 **sealing all records related to any other charges that were dismissed**
15 **or removed from the charging instrument, other than records related**
16 **to a diversion-related arrest or citation, if no other convictions exist**
17 **in the case.** The clerk of the court shall forward a copy of the order, or a
18 certified copy if requested, to such agencies as directed by the court.

19 “(c) Notwithstanding ORS 137.225, when a person is acquitted of
20 unlawful possession of a controlled substance constituting a drug
21 enforcement misdemeanor as described in section 35, chapter 70,
22 Oregon Laws 2024, the court shall, within 90 days after the acquittal,
23 enter an order sealing all records related to the arrest or citation and
24 the criminal proceedings. The court may enter an order sealing all
25 records related to any other charges that were dismissed or removed
26 from the charging instrument, other than records related to a
27 diversion-related arrest or citation, if no other convictions exist in the
28 case. The clerk of the court shall forward a copy of the order, or a
29 certified copy if requested, to such agencies as directed by the court.

30 “(4)(a) Notwithstanding ORS 137.225, and except as provided in para-

1 **graph (b) of this subsection**, after three years have passed from the date
2 of entry of judgment of conviction for unlawful possession of a controlled
3 substance constituting a drug enforcement misdemeanor as described in sec-
4 tion 35, [of this 2024 Act] **chapter 70, Oregon Laws 2024**, the court shall,
5 within 60 days after the [three year] **three-year** period has concluded, enter
6 an order sealing all records related to the arrest or citation, charges and
7 conviction. **The court may enter an order sealing all records related to**
8 **any other charges that were dismissed or removed from the charging**
9 **instrument, other than records related to a diversion-related arrest**
10 **or citation, if no other convictions exist in the case.** The clerk of the
11 court shall forward a copy of the order, or a certified copy if requested, to
12 such agencies as directed by the court.

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

20 “[b)] (c) Notwithstanding ORS 137.225, after three years have passed
21 since the dismissal of [a] **an** unlawful possession of a controlled substance
22 **offense** constituting a drug enforcement misdemeanor as described in section
23 35, [of this 2024 Act] **chapter 70, Oregon Laws 2024**, if the court has not
24 sealed records of the offense under subsection (2) or (3) of this section, the
25 court shall, within 60 days after the [three year] **three-year** period has con-
26 cluded, enter an order sealing all records related to the arrest or citation
27 and any criminal proceedings. **The court may enter an order sealing all**
28 **records related to any other charges that were dismissed or removed**
29 **from the charging instrument, other than records related to a**
30 **diversion-related arrest or citation, if no other convictions exist in the**

1 **case.** The clerk of the court shall forward a copy of the order, or a certified
2 copy if requested, to such agencies as directed by the court.

3 **“(5) If a case involves records related to two or more unlawful pos-**
4 **session of a controlled substance offenses constituting a drug**
5 **enforcement misdemeanor as described in section 35, chapter 70,**
6 **Oregon Laws 2024, and the records related to each offense are eligible**
7 **for sealing under this section at different times, the court may not**
8 **enter an order sealing records related to any drug enforcement**
9 **misdemeanor in the case until all records related to drug enforcement**
10 **misdemeanors in the case are eligible to be sealed.**

11 **“(6) The court may not enter an order under this section sealing**
12 **records related to unlawful possession of a controlled substance con-**
13 **stituting a drug enforcement misdemeanor as described in section 35,**
14 **chapter 70, Oregon Laws 2024, while a case has an active warrant.**

15 **“(7)(a) Notwithstanding subsections (1) to (5) of this section and any**
16 **other statute authorizing a court to enter an order sealing records**
17 **related to unlawful possession of a controlled substance constituting**
18 **a drug enforcement misdemeanor as described in section 35, chapter**
19 **70, Oregon Laws 2024, if a case includes records other than those re-**
20 **lated to unlawful possession of a controlled substance constituting a**
21 **drug enforcement misdemeanor, the court may not enter an order**
22 **sealing records related to unlawful possession of a controlled sub-**
23 **stance constituting a drug enforcement misdemeanor in the case until**
24 **the court enters an order setting aside or expunging all other records**
25 **in the case.**

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

1 “(A) If all records related to unlawful possession of a controlled
2 substance constituting a drug enforcement misdemeanor in the case
3 are eligible for sealing under this section, the court may enter an or-
4 der sealing all records in the case under one order.

5 “(B) Notwithstanding subsections (1) to (5) of this section, if the
6 records related to unlawful possession of a controlled substance con-
7 stituting a drug enforcement misdemeanor are not eligible for sealing
8 under this section, the court may enter an order sealing the records
9 if the court finds that the sealing would be in the best interests of the
10 person who is the subject of the records and the public.

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

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

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

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

28 “**Sec. 76.** (1) As used in this section, ‘deflection program’ means a
29 collaborative program between law enforcement agencies and behavioral
30 health entities that assists individuals who may have substance use disorder,

1 another behavioral health disorder or co-occurring disorders, to create
2 community-based pathways to treatment, recovery support services, housing,
3 case management or other services.

4 “(2) The Oregon Behavioral Health Deflection Program is established
5 within the Improving People’s Access to Community-based Treatment, Sup-
6 ports and Services Grant Review Committee established under ORS 430.234.
7 The program consists of grants awarded by the committee to counties and
8 federally recognized tribal governments to fund deflection programs.

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

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

14 “(B) Track and report data concerning deflection program outcomes in
15 order to determine the best practices for deflection programs within this
16 state.

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

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

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

25 “(c) Prior to submitting an application for a grant under this section, the
26 applicant shall coordinate with all partners of the development and admin-
27 istration of the proposed deflection program to ensure that the partners have
28 the resources necessary to implement the deflection program. The partners
29 shall include at least a district attorney, a law enforcement agency, a com-
30 munity mental health program established under ORS 430.620 and a provider

1 from a Behavioral Health Resource Network established under ORS 430.389.
2 Partners may also include a treatment provider, a local mental health au-
3 thority, a tribal government, a peer support organization, a court or a local
4 government body.

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

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

8 “(B) A description of the individuals who would be eligible for the pro-
9 gram and what qualifies as a successful outcome, formulated in cooperation
10 with the program partners described in paragraph (c) of this subsection;

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

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

17 “(E) A description of how the program coordinator will communicate with
18 program partners concerning persons participating in the program and any
19 other matter necessary for the administration of the program.

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

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

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

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

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

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

1 **2024;**

2 “(c) Must involve the partners described in subsection (4)(c) of this sec-
3 tion; and

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

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

6 “(B) A community provider;

7 “(C) A treatment provider;

8 “(D) A community-based organization;

9 “(E) A case management provider;

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

11 “(G) Any other individual or entity deemed necessary by the program co-
12 ordinator to carry out the purposes of the deflection program, including in-
13 dividuals with lived experience with substance use disorder, a behavioral
14 health disorder or co-occurring disorders.

15 “(6) During a grant application period established by the committee, the
16 maximum proportion of grant funds available to an applicant shall be de-
17 termined as follows:

18 “(a) The proportion of grant funds available to an applicant other than
19 a tribal government shall be determined [*based on the county formula share*
20 *employed by the Oversight and Accountability Council established under ORS*
21 *430.388*] **by a formula established by the commission**, but an applicant
22 may not receive less than \$150,000.

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

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

26 “(A) Deflection program expenses including but not limited to law
27 enforcement employees, deputy district attorneys and behavioral health
28 treatment workers, including peer navigators and mobile crisis and support
29 services workers.

30 “(B) Behavioral health workforce development.

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

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

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

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

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

11
12 **“PRE-PLEA SPECIALTY COURT PROBATION AGREEMENTS**

13
14 **“SECTION 28.** ORS 137.532 is amended to read:

15 “137.532. (1)(a) Whenever a person is charged with a misdemeanor or a
16 Class C felony, other than driving while under the influence of intoxicants,
17 and has been formally accepted into a specialty court, the court, with the
18 consent of the district attorney and the person, may defer further pro-
19 ceedings and place the person on probation. The terms of the probation shall
20 be defined by a probation agreement.

21 “(b) A probation agreement carries the understanding that if the defend-
22 ant fulfills the terms of the agreement, the criminal charges filed against the
23 defendant will be dismissed with prejudice.

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

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

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

28 “(C) The right to confront and cross-examine witnesses against the de-
29 fendant;

30 “(D) The right to contest evidence presented against the defendant, in-

cluding the right to object to hearsay evidence; and

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

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

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

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

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

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

“(3) Upon fulfillment of the terms and conditions of the probation agreement, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law

1 upon conviction of a crime. There may be only one discharge and dismissal
2 under this section with respect to any person.

3 “(4) In the event that the period of probation under this section expires,
4 but the terms and conditions of the probation agreement have not been ful-
5 filled and no probation violation proceeding was initiated prior to the expi-
6 ration of the period of probation, the court may not discharge the person and
7 dismiss the proceedings against the person. The court shall instead issue an
8 order requiring the person to appear and to show cause why the court should
9 not enter an adjudication of guilt as described in subsection (2) of this sec-
10 tion due to the failure of the person to fulfill the terms and conditions of the
11 probation agreement prior to expiration of the period of probation. At the
12 hearing on the order to show cause, after considering any evidence or argu-
13 ment from the district attorney and the person, the court may:

14 **“(a) If the court finds that the person has fulfilled the terms and**
15 **conditions of the probation agreement, discharge the person and dis-**
16 **miss the proceedings against the person as described in subsection (3)**
17 **of this section;**

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

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

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

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

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

1 "CAPTIONS

2
3 "SECTION 29. The unit captions used in this 2025 Act are provided
4 only for the convenience of the reader and do not become part of the
5 statutory law of this state or express any legislative intent in the
6 enactment of this 2025 Act.

7
8 "EMERGENCY CLAUSE

9
10 "SECTION 30. This 2025 Act being necessary for the immediate
11 preservation of the public peace, health and safety, an emergency is
12 declared to exist, and this 2025 Act takes effect on its passage.".