

Wednesday, February 5, 2025

Written Testimony of Rob Bovett
before the
Joint Committee on Addiction and Community Safety Response
in favor of
Senate Bill 236 with Amendments

Dear Co-Chairs Prozanski and Kropf, Senators Girod, and Lieber, and
Representatives Edwards, Isadore, Mannix, and Valderrama,

For the record I'm Rob Bovett. I have been involved in drug policy at local, state, national, and international levels for a few decades, and currently teach Drug Law and Policy at Lewis & Clark Law School. My career has focused heavily on creating and implementing diversionary programs in our criminal justice system for people suffering from addiction or behavioral health issues. I also currently serve as Vice-Chair of your Criminal Justice Commission where we oversee many of those programs - although I speak only for myself this evening.

Senate Bill 236 is the technical corrections bill for 2024 House Bill 4002, which I was involved in helping to negotiate and craft. HB 4002 has many moving parts that impact a wide array of stakeholders, programs, and systems. Even before the 2024 legislative session ended, we knew we would need a technical corrections bill in 2025 to fix and improve many of the provisions in HB 4002, which the Co-Chairs of this Committee acknowledged during the last significant negotiating sessions in the Speaker's Office on President's Day in 2024. By the end of that day, I had already assembled a punch list for needed further work, and made a commitment to the Co-Chairs to help manage and assemble a technical corrections bill for the 2025 legislative session.

At this Committee's informational meeting on September 24, 2024, I presented that punch list to the Committee during testimony and in written testimony. I also noted that the list would likely change and grow over time, as it has. I worked with a number of impacted stakeholders since that time and Senate Bill 236 is the result. But the work is not yet done. We need further amendments to the provisions contained in Senate Bill 236, and we are still working on two additional critical fixes. Thus, amendments to the bill are necessary and in process with Legislative Counsel. Below is my summary explanation for what is presently in the bill, followed by an explanation of the further work still being done.

1. Summary of Bill Contents

Sections 1 to 16 improve Section 39 of HB 4002 by **breaking out fentanyl offenses** into separate statutes to mirror the overall breakout system in the state Controlled Substances Act, ORS Chapter 475, established by 2005 Senate Bill 907, so that we can better track data and maintain independence from the federal scheduling framework for the primary drugs of abuse. Thus, those federal schedules don't dictate state crime levels based on federal scheduling criteria (see Attachment A of my written testimony from September), which don't always make much practical sense. This independence has proven to be desirable and efficacious in a number of contexts, such as with regard to cannabis. These sections need further even amendments to make them work properly. The Oregon Judicial Department (OJD) has provided fine tuning to accomplish that goal, and I may receive additional fine tuning from other stakeholders.

Section 17 improves the **Opioid Use Disorder Medication Grant Program** in Sections 81 to 86 of HB 4002 by **expanding the definition of "local correctional facility"** to also include community correction centers to enable more efficacy as intended by that program. Some counties operate community correction centers as an auxiliary to jails to provide for alternatives and enhanced services, such as transition, work release, and similar programs. Those facilities should have been included in the definition of "local correctional facility" for this grant program. I worked out language for Section 17 with the legal counsel for the Oregon State Sheriffs Association (OSSA).

Sections 18 to 23 make Sections 7 to 9 of HB 4002, relating to opioid use disorder medication prescriptions, functional. I worked with lawyers representing the Oregon State Pharmacy Association (OSPA), as well as a pharmacy professor, to make these sections work as intended.

Sections 24 and 25 make technical improvements to language contained in Sections 36 and 52 of HB 4002 relating to deflection and conditional discharge, respectively, as suggested by the Oregon Judicial Department (OJD).

2. Needed Amendments to Senate Bill 236

In addition to amendments to further refine and improve the existing sections of the bill as mentioned above, the amendments need to include two additional items, one of which is a bit challenging, as we suspected it might be. Those are as follows:

1. Making Sections 54 to 56 of HB 4002, relating to expunction, actually work. There are numerous ongoing efforts and legislation attempting to reform or streamline the process of expunction in Oregon law. I had hoped that it might be possible to fix Sections 54 to 56 of HB 4002 in the context of that ongoing work toward consensus legislation. However, it is now clear that that work will continue for some time. As a result, the focus of these needed amendments has shifted to simply making sure that Sections 54 and 56 actually work.

2. Giving the Criminal Justice Commission (CJC) the authority and direction to establish the grant distribution formula for its own deflection grant program created by Sections 76 to 79 of HB 4002, rather than relying upon a formula established by another agency for another purpose. The CJC has this authority for its other grant programs.

As mentioned above, amendments to SB 236 to accomplish the above are in process at Legislative Counsel and, once I receive some final input from additional stakeholders, should be ready to be worked on by Legislative Counsel. I will, of course, keep your Committee Administrator informed as to that progress so that we can, hopefully, schedule a work session soon.

Thank you for the opportunity to testify this evening in support of Senate Bill 236. I look forward to continuing to working with the Committee on these important technical fixes to 2024 House Bill 4002.

Sincerely,

Rob Bovett
Adjunct Professor of Law
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Drug Law & Policy Substack

NOTE: All information and comments above are my own. They do not reflect any official position of Lewis & Clark or any client.