

## DRUG ADDICTION TREATMENT AND RECOVERY ACT

**Whereas, Oregonians need adequate access to drug addiction treatment.** Oregon ranks nearly last out of the 50 states in access to treatment, and the waiting lists to get treatment are too long. Every day, one or two Oregonians die because of drug overdoses. Drug treatment and recovery ought to be available to any Oregon resident who requests it.

**Whereas, Oregonians suffering from substance use disorder also need adequate access to recovery services, peer support and stable housing.** One in every 11 Oregonians is addicted to drugs. Drug addiction exacerbates many of our state's most pressing problems, such as homelessness and poverty.

**Whereas, Oregon needs to shift its focus to addressing drugs through a humane, cost-effective, health approach.** People suffering from addiction are more effectively treated with health care services than with criminal punishments. A health care approach includes a health assessment to figure out the needs of people who are suffering from addiction, and it includes connecting them to the services they need.

**Whereas, Oregon still treats addiction as a criminal problem.** Law enforcement should spend more time on community safety, but Oregon law enforcement officers in 2017 arrested more than 8,000 people in cases where simple drug possession was the most serious offense. In many instances, the same people were arrested for drug possession, again and again, because they are unable to get treatment.

**Whereas, punishing people who are suffering from addiction ruins lives.** Criminalizing drugs saddles people with criminal records. Those records prevent them from getting housing, going to school, getting loans, getting professional licenses, getting jobs and keeping jobs. Criminalizing drugs disproportionately harms poor people and people of color.

**Whereas, punishing people who are suffering from addiction is expensive.** It costs an average of \$15,000 per case where a misdemeanor drug conviction is the most serious offense. That is more than the typical cost to provide treatment.

**Whereas, marijuana tax revenue has grown significantly.** Oregon now receives more than \$100 million in marijuana tax revenue a year. The amount of marijuana revenue is expected to grow by more than \$20 million per year.

The People of Oregon therefore propose this Drug Addiction Treatment and Recovery Act of 2020 to expand access to drug treatment and recovery services and pay for it with marijuana tax revenue.



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

**FINDINGS AND POLICY**

**Section 1.** (1)(a) The people of Oregon find that drug addiction and overdoses are a serious problem in Oregon and that Oregon needs to expand access to drug treatment.

(b) The people of Oregon further find that a health-based approach to addiction and overdose is more effective, humane and cost-effective than criminal punishments. Making people criminals because they suffer from addiction is expensive, ruins lives and can make access to treatment and recovery more difficult.

(2)(a) The purpose of this Drug Addiction Treatment and Recovery Act of 2020 is to make health assessment, treatment and recovery services for drug addiction available to all those who need and want access to those services and to adopt a health approach to drug addiction by removing criminal penalties for low-level drug possession.

(b) It is the policy of the State of Oregon that health assessment, treatment and recovery services for drug addiction are available to all those who need and want access to those services.

(3) The provisions of this Act shall be interpreted consistently with the findings, purposes and policy objectives stated in this section and shall not be limited by any policy set forth in Oregon law that could conflict with or be interpreted to conflict with the purposes and policy objectives stated in this section.

**EXPANDING TREATMENT AND SERVICES**

**Section 2. Grants Program.** (1) The Oversight and Accountability Council shall oversee and approve grants to implement Addiction Recovery Centers and increase access to community care, as set forth below.

(2) **Addiction Recovery Centers.** The Oversight and Accountability Council shall provide grants to existing agencies or organizations, whether government or community-based, to create Addiction Recovery Centers for the purposes of immediately triaging the acute needs of people who use drugs and assessing and addressing any on-going needs through intensive case management and linkage to care and services.

(a) Grants must be disbursed such that at least one Center shall be established within each existing coordinated care organization service area. Centers within each existing coordinated care organization service area shall be established and operational by October 1, 2021.

(b) Grantees must be able to provide or display an ability to provide the following services to any Oregon resident who requests it, in order to receive funding as an Addiction Recovery Center:

(i) 24/7 Triage: Centers shall assess a client's need for immediate medical or other treatment shortly upon the client's arrival to determine what acute care is needed and where it can be best provided. Centers shall provide this service twenty-four hours a day, seven days a week, 365 days a year.

(ii) Health Assessment: Centers shall conduct a comprehensive behavioral health needs assessment for each client, including a substance use disorder screening by a Certified Alcohol

and Drug Counselor or other credentialed addiction treatment professional. The assessment shall prioritize the self-identified needs of the client.

(iii) Individual Intervention Plan, Intensive Case Management and Connection to Services: If, after the completion of the assessment, the client indicates a desire to address some or all of the identified needs, a case manager shall work with the client to design an Individual Intervention Plan. The plan must address the client's need for substance use disorder treatment, coexisting health problems, housing, employment and training, childcare and other services. Intensive Case Management requires, in the least, that case managers have a sufficiently low staff-to-client ratio to provide daily support as needed to connect clients to services and care needed to fulfill the Individual Intervention Plan and have the capacity to follow-up to ensure clients are accessing care and, if not, to reconnect clients to care as necessary and as desired by clients.

(iv) Peer Support: Each Center shall offer ongoing peer counseling and support from triage and assessment through implementation of Individual Intervention Plans as well as provide peer outreach workers to engage directly with marginalized community members who could potentially benefit from the Center's services.

(v) Outreach: Each Center shall assess the need for, and provide, mobile or virtual outreach services to reach clients who are unable to access the Center.

(A) Notwithstanding subsection (2)(a) of this section, only one Center within each coordinated care organization service area is required to provide the triage assessments set forth in subsection (2)(b)(i) of this section.

(c) All services provided at the Centers must be evidence-informed, trauma-informed, culturally responsive, patient-centered, non-judgmental, and centered on principles of harm reduction. The goal of the Individual Intervention Plan and Intensive Case Management shall be to address effectively the client's substance use disorder and any other factors driving problematic behaviors without employing coercion or shame or mandating abstinence.

(d) The Centers shall be adequately staffed to address the needs of people with substance use disorder within their regions as determined by the Oversight and Accountability Council, but must include, at a minimum, at least one person qualified in each of the following categories: Certified Alcohol and Drug Counselor or other credentialed addiction treatment professional; intensive case manager; and, peer support specialist.

(e) Each Center shall provide timely verification on behalf of any client who has completed a health assessment, as set forth in subsection (2)(b)(ii) of this section, if the client requests such verification to comply with section 22 or section 23(2) of this Act.

**(3) Increasing Community Access to Care.** The Oversight and Accountability Council shall provide grants to existing agencies or organizations, whether government or community based, to increase access to one or more of the following:

(a) Low barrier substance use disorder treatment that is evidence-informed, trauma-informed, culturally responsive, patient-centered, and non-judgmental;

(b) Peer support and recovery services;

(c) Transitional, supportive, and permanent housing for persons with substance use disorder;

(d) Harm reduction interventions including, but not limited to, overdose prevention education, access to naloxone hydrochloride and sterile syringes, and stimulant-specific drug education and outreach.

(4) The Council shall prioritize providing grants to community-based nonprofit organizations within each coordinated care organization service area. However, if within any such service area a community-based nonprofit organization does not apply for a grant or grants are not sought within that service area for which services are needed, then the Council may request and fund grants to any community care organization or county within that service area.

(5) Services provided by grantees, including services provided by Addiction Recovery Centers, shall be free of charge to the persons receiving the services. To the extent consistent with applicable law, grantees and service providers may seek and obtain reimbursement for services provided to any person from any insurer or entity providing insurance to that person.

**Section 3. Oversight and Accountability Council.** The Director of the Oregon Health Authority shall establish an Oversight and Accountability Council for the purpose of determining how funds will be distributed to grant applicants and to oversee the implementation of the Centers pursuant to section 2. The Council shall be formed on or before February 1, 2021.

(a) The Council shall be comprised of qualified individuals with experience in substance use disorder treatment and other addiction services. The Council shall consist of at least one member from each of the following categories only:

(i) A representative of the Oregon Health Authority, Health Systems Division Behavioral Health Services;

(ii) Three members of communities that have been disproportionately impacted by arrests, prosecution or sentencing for conduct that has been classified or reclassified as a Class E violation pursuant to section 11 to section 19.

(iii) A physician specializing in addiction medicine;

(iv) A licensed clinical social worker;

(v) An evidence-based substance use disorder provider;

(vi) A harm reduction services provider;

(vii) A person specializing in housing services for people with substance use disorder or a diagnosed mental health condition;

(viii) An academic researcher specializing in drug use or drug policy;

(ix) At least two people who suffered or suffer from substance use disorder;

(x) At least two recovery peers;

(xi) A mental or behavioral health provider;

(xii) A representative of a coordinated care organization; and,

(xiii) A person who works for a non-profit organization that advocates for persons who experience or have experienced substance use disorder.

- (2) A quorum consists of nine members.
- (3) The term of office for a member of the Council shall be four years. Vacancies shall be appointed for the unexpired term.
- (4)(a) To the extent permissible by law, a member of the Council performing services for the Council may receive compensation from his or her employer for time spent performing services as a Council member.
- (b) If a member of the Council is not compensated by their employer as set forth in subsection (4)(a) of this section, that member shall be entitled to compensation and expenses as provided in ORS 292.495.
- (c) Nothing in this subsection (4) of this section excuses or exempts a member of the Council from complying with any applicable provision of Oregon's ethics laws and regulations, including the provisions of ORS Chapter 244.

**Section 4. Administration.** (1)(a) On or before June 30, 2021 the Oversight and Accountability Council shall adopt rules that establish general criteria and requirements for the Addiction Recovery Centers and the grants required by section 2.

(b) The Council shall from time to time adopt such rules, and amend and revise rules it has adopted, as it deems proper and necessary for the administration of this Act and the performance of its work.

(2) The Council shall have and retain the authority to implement and oversee the Addiction Recovery Centers created by section 2 and the grants program created and required by section 2.

(3) The Oregon Health Authority, Health Systems Division Behavioral Health Services shall administer and provide all necessary support to ensure the implementation of this Act.

(4)(a) The Oregon Health Authority, Health Systems Division Behavioral Health Services, in consultation with the Council, may enter into interagency agreements to ensure proper distribution of funds for the grants created and required by section 2.

(b) The Oregon Health Authority, Health Systems Division Behavioral Health Services shall encourage and take all reasonable measures to ensure that grant recipients cooperate, coordinate and act jointly with one another to offer the services described in section 2.

(5) The Oregon Health Authority, Health Systems Division Behavioral Health Services shall provide requested technical, logistical and other support to the Council to assist the Council with its duties and obligations.

## FUNDING

**Section 5.** (1) The Drug Treatment and Recovery Services Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Fund shall be credited to the Fund.

(2) The Drug Treatment and Recovery Services Fund shall consist of:

(a) Moneys deposited into the Fund pursuant to section 6;

- (b) Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;
  - (c) Moneys allocated from the Oregon Marijuana Account, pursuant to ORS 475B.759(7); and,
  - (d) All other moneys deposited in the fund from any source.
- (3) Moneys in the Fund shall be continuously appropriated to the Oregon Health Authority for the purposes set forth in section 2.
- (4) Unexpended moneys in the Fund may not lapse and shall be carried forward and may be used without regard to fiscal year or biennium.
- (5)(a) Pursuant to subsection (2)(b) of this section, the Legislative Assembly shall appropriate or transfer to the Fund an amount sufficient to fully fund the grants program required by section 2.
- (b) The total amount deposited and transferred into the Fund shall not be less than \$57 million for the first year this Act is in effect.
- (c) In each subsequent year, that amount set forth in subsection (5)(b) of this section shall be increased by not less than:
- (i) the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending December 31 of the prior calendar year exceeds the monthly index for the fourth quarter of the calendar year 2020; and,
  - (ii) an amount not less than the increase in moneys distributed pursuant to ORS 475B.759(7).

**Section 6.** (1) The Department of Revenue shall credit and transfer or cause to be credited and transferred to the Drug Treatment and Recovery Services Fund the savings to the State of Oregon from the implementation of this Act as calculated in section 7.

(2) If the savings calculated for any subsequent biennium under section 7(1) is less than any prior biennium, the amount credited and transferred to the Drug Treatment and Recovery Services Fund shall be the highest amount calculated for any previous biennium.

(3) The savings as calculated in section 7 shall be transferred on or before the end of the fiscal year in which the calculation is completed.

**Section 7.** (1)(a) Within 180 days of the end of first biennium in which this Act becomes effective, and within 180 days of the end of each subsequent biennium, the Office of Economic Analysis shall calculate the savings to the State of Oregon resulting from the sentence reductions set forth in section 11 to section 20, including any savings resulting from reductions in arrests, incarceration and supervision.

(b) The savings shall be calculated based on a comparison of the most recent biennium concluded at the time the calculation is made and the biennium immediately preceding the biennium in which this Act became effective.

(2) In making the calculations set forth in this section, the Office of Economic Analysis shall use actual data. The Office of Economic Analysis may use best available estimates where actual data is unavailable.

**Section 8.** Moneys transferred to the Drug Treatment and Recovery Services Fund and distributed pursuant to section 2 shall, to the maximum extent consistent with law, be in addition

to and not in replacement of any existing allocations or appropriations for the purposes of providing substance use disorder treatment, peer support and recovery services, transitional, supportive and permanent housing for persons with substance use disorders, harm reduction interventions, and for establishing Addiction Recovery Centers.

**Section 9. Account Allocation.** (1) The Oregon Health Authority shall cause the moneys in the Drug Treatment and Recovery Services Fund to be distributed as follows:

- (a) An amount necessary for administration of section 2 to section 4 not to exceed 4% of the moneys deposited into the Fund in any biennium.
- (b) After the distribution set forth in subsection (1)(a) of this section, the remaining moneys in the Fund shall be distributed to the grants program as set forth in section 2.

**Section 10.** ORS 475B.759 is amended as follows:

(1) There is established the Oregon Marijuana Account, separate and distinct from the General Fund.

(2) The account shall consist of moneys transferred to the account under ORS 475B.760.

(3)(a) The Department of Revenue shall certify quarterly the amount of moneys available in the Oregon Marijuana Account.

(b) Subject to subsection (4) of this section, **and after making the transfer of moneys required by subsection (7) of this section**, the department shall transfer quarterly 20 percent of the **remaining** moneys in the Oregon Marijuana Account as follows:

(A) Ten percent of the moneys in the account must be transferred to the cities of this state in the following shares:

(i) Seventy-five percent of the 10 percent must be transferred in shares that reflect the population of each city of this state that is not exempt from this paragraph pursuant to subsection (4)(a) of this section compared to the population of all cities of this state that are not exempt from this paragraph pursuant to subsection (4)(a) of this section, as determined by Portland State University under ORS 190.510 to 190.610, on the date immediately preceding the date of the transfer; and

(ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each city compared to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day of that calendar quarter for all premises in this state located in cities; and

(B) Ten percent of the moneys in the account must be transferred to counties in the following shares:

(i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the last business day of the calendar quarter preceding the date of the transfer for all premises located in each county compared to the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the last business day of that calendar quarter for all premises located in this state; and

(ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each county compared to the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of that calendar quarter for all premises in this state.

**(c) After making the transfer of moneys required by subsection (7) of this section, Eighty eighty percent of the remaining moneys in the Oregon Marijuana Account must be used as follows:**

(A) Forty percent of the moneys in the account must be used solely for purposes for which moneys in the State School Fund established under ORS 327.008 may be used;

(B) Twenty percent of the moneys in the account must be used solely for purposes for which moneys in the Mental Health Alcoholism and Drug Services Account established under ORS 430.380 may be used;

(C) Fifteen percent of the moneys in the account must be used solely for purposes for which moneys in the State Police Account established under ORS 181A.020 may be used; and

(D) Five percent of the moneys in the account must be used solely for purposes related to alcohol and drug abuse prevention, early intervention and treatment services.

(4)(a) A city that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection (3)(b)(A) of this section.

(b) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under subsection (3)(b)(B)(i) of this section.

(c) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection (3)(b)(B)(ii) of this section.

(5)(a) A city or county that is ineligible under subsection (4) of this section to receive a transfer of moneys from the Oregon Marijuana Account during a given quarter but has received a transfer of moneys for that quarter shall return the amount transferred to the Department of Revenue, with interest as described under paragraph (f) of this subsection. An ineligible city or county may voluntarily transfer the moneys to the Department of Revenue immediately upon receipt of the ineligible transfer.

(b) If the Director of the Oregon Department of Administrative Services determines that a city or county received a transfer of moneys under subsection (3)(b) of this section but was ineligible to receive that transfer under subsection (4) of this section, the director shall provide notice to the ineligible city or county and order the city or county to return the amount received to the Department of Revenue, with interest as described under paragraph (f) of this subsection. A city or county may appeal the order within 30 days of the date of the order under the procedures for a contested case under ORS chapter 183.

(c) As soon as the order under paragraph (b) of this subsection becomes final, the director shall notify the Department of Revenue and the ineligible city or county. Upon notification, the Department of Revenue immediately shall proceed to collect the amount stated in the notice.

(d) The Department of Revenue shall have the benefit of all laws of the state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in the notice under paragraph (c) of this subsection. An assessment of tax is not necessary and the collection described in this subsection is not precluded by any statute of limitations.

(e) If a city or county is subject to an order to return moneys from an ineligible transfer, the city or county shall be denied any further relief in connection with the ineligible transfer on or after the date that the order becomes final.

(f) Interest under this section shall accrue at the rate established in ORS 305.220 beginning on the date the ineligible transfer was made.

(g) Both the moneys and the interest collected from or returned by an ineligible city or county shall be redistributed to the cities or counties that were eligible to receive a transfer under subsection (3)(b) of this section on the date the ineligible transfer was made.

(6)(a) Not later than July 1 of each year, each city and county in this state shall certify with the Oregon Department of Administrative Services whether the city or county has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concurrently with the certifications under ORS 221.770, in a form and manner prescribed by the Oregon Department of Administrative Services.

(b) If a city fails to comply with this subsection, the city is not eligible to receive transfers of moneys under subsection (3)(b)(A) of this section. If a county fails to comply with this subsection, the county is not eligible to receive transfers of moneys under subsection (3)(b)(B) of this section.

(c) A city or county that repeals an ordinance as provided in ORS 475B.496 shall file an updated certification with the Oregon Department of Administrative Services in a form and manner prescribed by the department, noting the effective date of the change. A city or county that repeals an ordinance as provided in ORS 475B.496 is eligible to receive quarterly transfers of moneys under this section for quarters where the repeal is effective for the entire quarter and the updated certification was filed at least 30 days before the date of transfer

**(7) Before making the transfer of moneys required by subsection (3) of this section, the department shall transfer quarterly to the Drug Treatment and Recovery Services Fund all moneys in the Oregon Marijuana Account in excess of \$11,250,000.**

## REMOVING DRUG PENALTIES

**Section 11.** ORS 475.752 is amended to read:

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

(a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise provided in ORS 475.886 and 475.890.

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

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

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

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

(2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to create or deliver a counterfeit substance. Any person who violates this subsection with respect to:

(a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

(b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

(c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

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

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

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

(a) A controlled substance in Schedule I, is guilty of a Class [A *misdemeanor*] **E violation**, except as otherwise provided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

(b) A controlled substance in Schedule II, is guilty of a Class [A *misdemeanor*] **E violation**, except as otherwise provided in ORS 475.824, 475.834 or 475.884 or subsection (8) of this section.

(c) A controlled substance in Schedule III, is guilty of a Class [A *misdemeanor*] **E violation**.

(d) A controlled substance in Schedule IV, is guilty of a Class [C *misdemeanor*] **E violation**.

(e) A controlled substance in Schedule V, is guilty of a violation.

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

(a) In connection with the good faith practice of a religious belief;

(b) As directly associated with a religious practice; and

(c) In a manner that is not dangerous to the health of the user or others who are in the proximity of the user.

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

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

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

(7) Notwithstanding subsection (3)(a) of this section, unlawful possession of a controlled substance in Schedule I is a Class B felony if[.] **the**

*[(a) The person possesses a usable quantity of the controlled substance and:]*

*[(A) At the time of the possession, the person has a prior felony conviction;]*

*[(B) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or]*

*[(C) The] possession is a commercial drug offense under ORS 475.900(1)(b).[: or]*

**(b) Notwithstanding subsection (3)(a) of this section and except as provided in ORS 475.900(1)(b), unlawful possession of a controlled substance in Schedule I is a Class A misdemeanor if the [~~The~~] person possesses:**

(A) Forty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide; or

(B) Twelve grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin.

(8) Notwithstanding subsection (3)(b) of this section, unlawful possession of a controlled substance in Schedule II is a Class C felony if [*the person possesses a usable quantity of the controlled substance and:]* **the**

*(a) [At the time of the possession, the person has a prior felony conviction;]*

*[(b) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or]*

*[(c) The] possession is a commercial drug offense under ORS 475.900(1)(b).*

**Section 12.** ORS 475.824 is amended to read:

(1) It is unlawful for any person knowingly or intentionally to possess methadone unless the methadone was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of methadone is a Class [A misdemeanor] **E violation.**

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a Class C felony if[.] **the**

*[(A) The person possesses a usable quantity of methadone and:]*

*[(i) At the time of the possession, the person has a prior felony conviction;]*

*[(ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or]*

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

**(c) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a Class A misdemeanor if the**

*[(B) The] person possesses 40 or more user units of a mixture or substance containing a detectable amount of methadone.*

**Section 13.** ORS 475.834 is amended to read:

(1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless the oxycodone was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of oxycodone is a Class *[A misdemeanor]* **E violation.**

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of oxycodone is a Class C felony if[.] **the**

*[(A) The person possesses a usable quantity of oxycodone and:]*

*[(i) At the time of the possession, the person has a prior felony conviction;]*

*[(ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or]*

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

**(c) Notwithstanding paragraph (a) of this subsection, unlawful possession of oxycodone is a Class A misdemeanor if the**

*[(B) The] person possesses 40 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of oxycodone.*

**Section 14.** ORS 475.854 is amended to read:

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

(2)(a) Unlawful possession of heroin is a Class *[A misdemeanor]* **E violation.**

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class B felony if[.] **the**

*[(A) The person possesses a usable quantity of heroin and:]*

*[(i) At the time of the possession, the person has a prior felony conviction;]*

*[(ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or]*

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

**(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900(1)(b), unlawful possession of heroin is a Class A misdemeanor if the**

*[(B) The] person possesses one gram or more of a mixture or substance containing a detectable amount of heroin.*

**Section 15.** ORS 475.874 is amended to read:

(1) It is unlawful for any person knowingly or intentionally to possess 3,4-methylenedioxymethamphetamine.

(2)(a) Unlawful possession of 3,4-methylenedioxymethamphetamine is a Class *[A misdemeanor]* **E violation.**

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of 3,4-methylenedioxymethamphetamine is a Class B felony if~~[:]~~ **the**

*[(A) The person possesses a usable quantity of 3,4-methylenedioxymethamphetamine and:]*

*[(i) At the time of the possession, the person has a prior felony conviction;]*

*[(ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or]*

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

**(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900(1)(b), unlawful possession of methylenedioxymethamphetamine is a Class A misdemeanor if the**

*[(B) The] person possesses one gram or more or five or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:*

(i) 3,4-methylenedioxyamphetamine;

(ii) 3,4-methylenedioxymethamphetamine; or

(iii) 3,4-methylenedioxy-N-ethylamphetamine.

**Section 16.** ORS 475.884 is amended to read:

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

(2)(a) Unlawful possession of cocaine is a Class [A misdemeanor] **E violation**.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a Class C felony if[:] **the**

[A] *The person possesses a usable quantity of cocaine and:*

[i] *At the time of the possession, the person has a prior felony conviction;*

[ii] *At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or*

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

**(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900(1)(b), unlawful possession of cocaine is a Class A misdemeanor if the**

[B] *The* person possesses two grams or more of a mixture or substance containing a detectable amount of cocaine.

**Section 17.** ORS 475.894 is amended to read:

(1) It is unlawful for any person knowingly or intentionally to possess methamphetamine unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of methamphetamine is a Class [A misdemeanor] **E violation**.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine is a Class C felony if[:]

[A] *The person possesses a usable quantity of methamphetamine and:*

[i] *At the time of the possession, the person has a prior felony conviction;*

[ii] *At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or*

[iii] *The* **the** possession is a commercial drug offense under ORS 475.900(1)(b)~~;~~~~or~~.

**(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900(1)(b), unlawful possession of methamphetamine is a Class A misdemeanor if the**

[B] *The* person possesses two grams or more of a mixture or substance containing a detectable amount of methamphetamine.

**Section 18.** ORS 153.012 is amended to read:

Violations are classified for the purpose of sentencing into the following categories:

(1) Class A violations;

(2) Class B violations;

(3) Class C violations;

(4) Class D violations;

**(5) Class E violations;**

[(5)] (6) Unclassified violations as described in ORS 153.015; and

**(7) Specific fine violations as described in ORS 153.015.**

**Section 19.** ORS 153.018 is amended to read:

(1) The penalty for committing a violation is a fine. The law creating a violation may impose other penalties in addition to a fine but may not impose a term of imprisonment.

(2) Except as otherwise provided by law, the maximum fine for a violation committed by an individual is:

(a) \$2,000 for a Class A violation.

(b) \$1,000 for a Class B violation.

(c) \$500 for a Class C violation.

(d) \$250 for a Class D violation.

**(e) \$100, or, in lieu of the fine, a completed health assessment as specified in section 2(2)(b)(ii) or section 23(2), for a Class E violation.**

[(e)](f) \$2,000 for a specific fine violation, or the maximum amount otherwise established by law for the specific fine violation.

(3) If a special corporate fine is specified in the law creating the violation, the sentence to pay a fine shall be governed by the law creating the violation. Except as otherwise provided by law, if a special corporate fine is not specified in the law creating the violation, the maximum fine for a violation committed by a corporation is:

(a) \$4,000 for a Class A violation.

(b) \$2,000 for a Class B violation.

(c) \$1,000 for a Class C violation.

(d) \$500 for a Class D violation.

**Section 20.** ORS 423.478 is amended to read:

(1) The Department of Corrections shall:

(a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;

(b) Provide central information and data services sufficient to:

(A) Allow tracking of offenders; and

(B) Permit analysis of correlations between sanctions, supervision, services and programs, and future criminal conduct; and

(c) Provide interstate compact administration and jail inspections.

(2) Subject to ORS 423.483, the county, in partnership with the department, shall assume responsibility for community-based supervision, sanctions and services for offenders convicted of felonies or designated drug-related misdemeanors who are:

(a) On parole;

(b) On probation;

(c) On post-prison supervision;

(d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

(e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-Prison Supervision to 12 months or less incarceration for violation of a condition of parole, probation or post-prison supervision; or

(f) On conditional release under ORS 420A.206.

(3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration, when an offender is committed to the custody of the supervisory authority of a county under ORS 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority releases a person from custody under this subsection and the person is required to report as a sex offender under ORS 163A.010, the supervisory authority, as a condition of release, shall order the person to report to the Department of State Police, a city police department or a county sheriff's office or to the supervising agency, if any:

(a) When the person is released;

(b) Within 10 days of a change of residence;

(c) Once each year within 10 days of the person's birth date;

(d) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(e) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(4) As used in this section:

(a) "Attends," "institution of higher education," "works" and "carries on a vocation" have the meanings given those terms in ORS 163A.005.

(b) "Designated drug-related misdemeanor" means:

*[(A) Unlawful possession of a Schedule I controlled substance under ORS 475.752 (3)(a);]*

*[(B) Unlawful possession of a Schedule II controlled substance under ORS 475.752 (3)(b);]*

- (C) Unlawful possession of methadone under [ORS 475.824(2)(a)] **ORS 475.824(2)(c)**;
- (D) Unlawful possession of oxycodone under [ORS 475.834(2)(a)] **ORS 475.834(2)(c)**;
- (E) Unlawful possession of heroin under [ORS 475.854(2)(a)] **ORS 475.854(2)(c)**;
- (F) Unlawful possession of 3,4-methylenedioxymethamphetamine under [ORS 475.874(2)(a)] **ORS 475.874(2)(c)**;
- (G) Unlawful possession of cocaine under [ORS 475.884(2)(a)] **ORS 475.884(2)(c)**; or
- (H) Unlawful possession of methamphetamine under ORS [475.894(2)(a)] **ORS 475.894(2)(c)**.

**Section 21.** ORS 670.280 is amended as follows:

(1) As used in this section:

(a) “License” includes a registration, certification or permit.

(b) “Licensee” includes a registrant or a holder of a certification or permit.

(2) Except as provided in ORS 342.143(3) or 342.175(3), a licensing board, commission or agency may not deny, suspend or revoke an occupational or professional license solely for the reason that the applicant or licensee has been convicted of a crime, but it may consider the relationship of the facts which support the conviction and all intervening circumstances to the specific occupational or professional standards in determining the fitness of the person to receive or hold the license. **There is a rebuttable presumption as to each individual applicant or licensee that an existing or prior conviction for conduct that has been classified or reclassified as a Class E violation pursuant to section 11 to section 19 does not make an applicant for an occupational or professional license or a licensee with an occupational or professional license unfit to receive or hold the license.**

(3) Except as provided in ORS 342.143(3) and 342.175(3), a licensing board, commission or agency may deny an occupational or professional license or impose discipline on a licensee based on conduct that is not undertaken directly in the course of the licensed activity, but that is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required. In determining whether the conduct is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required, the licensing board, commission or agency shall consider the relationship of the facts with respect to the conduct and all intervening circumstances to the specific occupational or professional standards. **There is a rebuttable presumption as to each individual applicant or licensee that an existing or prior conviction for conduct that has been classified or reclassified as a Class E violation pursuant to section 11 to section 19 is not related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required.**

**Section 22.** Any person subject to the penalty set forth in ORS 153.018(2)(e) for a violation that has been classified or reclassified as a Class E violation pursuant to section 11 to section 19, shall be fined up to \$100, but in lieu of the fine, may complete a health assessment, as set forth in section 2(2)(b)(ii), at an Addiction Recovery Center. Upon verification that the person has received a health assessment at an Addiction Recovery Center within 45 days of when the person receives a citation for a violation subject to the penalty set forth in ORS 153.018(2)(e), the fine shall be waived. Failure to pay the fine shall not be a basis for further penalties or for a term of incarceration.

## OVERSIGHT AND ADMINISTRATION

**Section 23. Implementation.** (1) Not later than February 1, 2021, the Oregon Health Authority, Health Systems Division Behavioral Health Services shall establish a statewide temporary telephone Addiction Recovery Center. The temporary telephone Addiction Recovery Center shall be staffed twenty-four hours a day, seven days a week, 365 days a year. The temporary telephone Addiction Recovery Center shall provide the services set forth in section 2(2)(b)(i)-(iii) and the verification set forth in section 2(2)(e).

(2) Until such time as an Addiction Recovery Center is established in the coordinated care organization service area where a person subject to the penalty set forth in ORS 153.018(2)(e) for a violation that has been classified or reclassified as a Class E violation pursuant to section 11 to section 19 resides, the person shall be fined up to \$100, but in lieu of the fine may complete a health assessment, as set forth in section 2(2)(b)(ii), through the temporary telephone Addiction Recovery Center. Upon verification that the person has received a health assessment through the temporary telephone Addiction Recovery Center within 45 days of when the person receives a citation for a violation subject to the penalty set forth in ORS 153.018(2)(e), the fine shall be waived. Failure to pay the fine shall not be a basis for further penalties or for a term of incarceration.

(3) When an Addiction Recovery Center is established in each coordinated care organization service area, and not later than October 1, 2021, the temporary telephone Addiction Recovery Center shall be terminated.

**Section 24. Audits.** (1) No later than December 31, 2022, and at least once every two years thereafter, the Oregon Secretary of State, Audits Division shall conduct financial and performance audits regarding the uses of the Drug Treatment and Recovery Services Fund and the effectiveness of the Fund in achieving the purposes of the Fund and the policy objectives of this Act. The audit shall include:

(a) Data on grant programs, including:

(i) A list of organizations and agencies receiving moneys from the Fund;

(ii) The amount each organization and agency received from the Fund;

(iii) The total number of organizations and agencies that applied for moneys from the Fund;

(iv) The moneys that remained in the Fund after funds were disbursed;

(v) The moneys used to administer the programs selected by the Fund;

(vi) The effectiveness of the grants in increasing access to substance use disorder treatment, peer support and recovery services, harm reduction interventions as well as housing placement, and any other relevant outcome measures;

(b) Data on Addiction Recovery Centers, including:

(i) The outcomes of each Center, including, but not limited to, the number of clients with substance use disorder served by each Center, the average duration of client participation, and client outcomes, including rates of recidivism, substance use disorder treatment completion, ability to obtain housing, employment, and legitimate income;

- (ii) The number of people seeking assistance from the Center who are denied or not connected to substance use disorder treatment and other services, and the reasons for such denials;
  - (iii) The average wait time it takes for people at the Center to be able to fulfill their Individual Intervention Plan and the reason for any delays, such as waiting lists at referred services;
  - (iv) The total amount of money disbursed to each Center.
- (c) Data on implementation, including, the number of citations for Class E violations issued and the race of the person receiving a citation for a Class E violation;
- (2) The audits set forth in subsection (a) of this section shall be conducted pursuant to the provisions of Oregon Revised Statutes Chapter 297 (and any subsequent modifications or amendments to those statutes), except to the extent any provision of Chapter 297 conflicts with any provision of this Act, in which case the provisions of this Act shall control.
- (3) The Audits Division shall monitor and report annually on agency progress in implementing recommendations made in the audits. The Audits Division shall follow up on recommendations as part of recurring audit work or as an activity separate from other audit activity. When following up on recommendations, the Audits Division may request from the appropriate agency evidence of implementation.

## MISCELLANEOUS

**Section 25. Effective and Operative Dates.** (1) This Act shall become effective pursuant to Article IV, section 1(4)(d) of the Oregon Constitution.

(2) The amendments to statutes by section 11 to section 21, and section 22, become operative on February 1, 2021.

**Section 26. Severability.** If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect any other provision or application of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

