



Oregon Drug Policy

From Decriminalization to Recriminalization

Alaska State Legislature: Joint Judiciary Committee Meeting 2/19/25

Ken Sanchagrin

Executive Director, Oregon Criminal Justice Commission

Drug Decriminalization in Oregon

- Legalization of Marijuana in 2015
- Drug Defelonization (HB 2355 2017)
- Drug decriminalization via Ballot Measure 110 in 2020
- Limited legalization of psilocybin in 2020

(SUB)CULTURE

Drug Decriminalization Goes Into Effect in Oregon

Measure 110 prioritizes drug treatment over police enforcement, using cannabis revenue to open new addiction treatment centers across the state

BY JON BLISTEIN

FEBRUARY 1, 2021



RICHARD VOGEL/AP

Decriminalization: HB 2355 (2017)

- Prior to 2017, possession of controlled substances was a C Felony in all* circumstances.
- In HB 2355, an A Misdemeanor was created for individuals possessing a “user quantity” of controlled substances who did not have a criminal record.
- Effects of Defelonization:
 - Overall PCS arrests fell by 18%
 - Misdemeanor convictions rose from >5% annually to 50%.
 - The number of individuals who became first time felons due to a PCS conviction also fell substantially.
 - Racial disparities for felony arrests and convictions fell substantially. These disparities, however, were merely transferred to misdemeanor PCS cases.

HB 2355 Framework

Felony

- Subject has a prior felony conviction
- Subject has 2 or more PCS misdemeanor convictions
- Subject is convicted of a commercial drug offense
- Subject possesses more than a **user quantity** of drugs

Class A Misdemeanor

- Subject possesses a **user quantity** of controlled substances

User Quantity

Heroin: ≤1g

LSD: ≤40 units

MDMA: ≤1g or 5 pills

Psilocybin: ≤12g

Cocaine: ≤2g

Methadone: ≤40g

Meth: ≤2g

Oxycodone: ≤40 pills

Decriminalization: BM 110

- In 2020, a coalition of local advocacy groups, with assistance from the Drug Policy Alliance, proposed Ballot Measure 110.
 - Mandated the creation and funding of local addiction recovery centers and shifted marijuana tax funding to support these efforts (approximately \$100M annually)
 - Reclassified certain types of drug possession
- Oregon voters passed Ballot Measure 110:
 - Yes: 1,333,268 (58.46%)
 - No: 947,314 (41.54%)

128 Measures | Measure 110

Proposed by initiative petition to be voted on at the General Election, November 3, 2020.

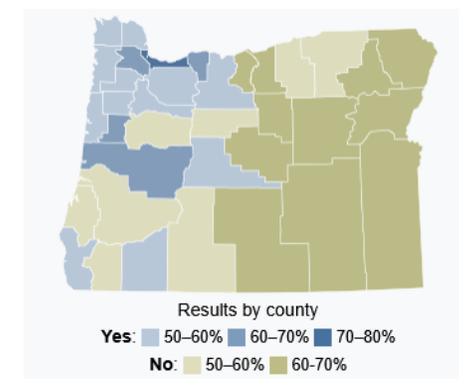
Measure No. 110 Provides statewide addiction/recovery services; marijuana taxes partially finance; reclassifies possession/penalties for specified drugs

Estimate of Financial Impact	129
Text of Measure	129
Explanatory Statement	137
Racial & Ethnic Impact Statement	138
Arguments in Favor	139
Arguments in Opposition	158

Result of "Yes" Vote
"Yes" vote provides addiction recovery centers/services; marijuana taxes partially finance (reduces revenues for other purposes); reclassifies possession of specified drugs, reduces penalties; requires audits.

Result of "No" Vote
"No" vote rejects requiring addiction recovery centers/services; retains current marijuana tax revenue uses; maintains current classifications/ penalties for possession of drugs.

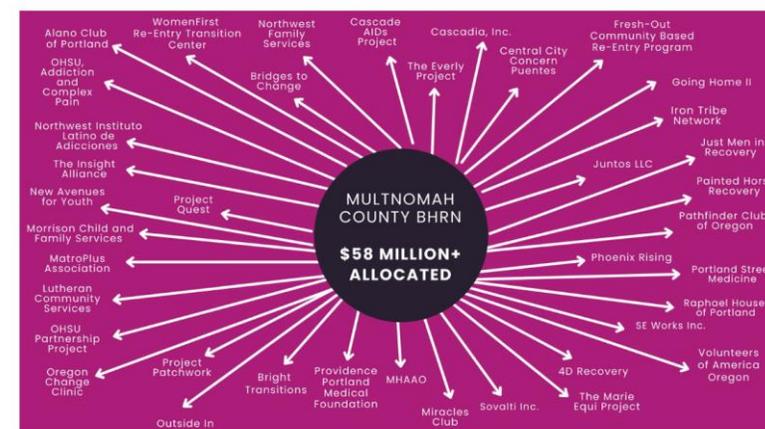
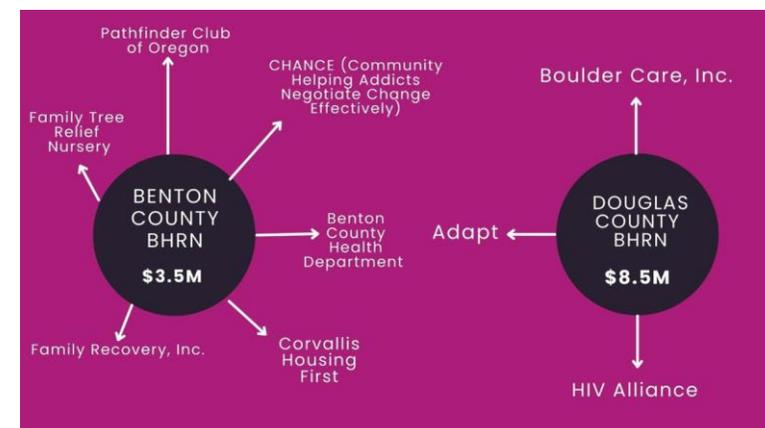
Summary
Measure mandates establishment/ funding of "addiction recovery centers" (centers) within each existing coordinated care organization service area by October 1, 2021; centers provide drug users with triage, health assessments, treatment, recovery services. To fund centers, measure dedicates all marijuana tax revenue above \$11,250,000 quarterly, legislative appropriations, and any savings from reductions in arrests, incarceration, supervision resulting from the measure. Reduces marijuana tax revenue for other uses. Measure reclassifies personal non-commercial possession of certain drugs under specified amount from misdemeanor or felony (depending on person's criminal history) to Class E violation subject to either \$100 fine or a completed health assessment by center. Oregon Health Authority establishes council to distribute funds/ oversee implementation of centers. Secretary of State audits biennially. Other provisions.



Source: Associated Press^[1]

BM 110: Treatment

- BM110 led to the creation of Behavioral Health Resource Networks (BHRNs) in all Oregon Counties and in each Tribal area.
- The funding infusion was a welcome change given Oregon’s struggles with SUD treatment.
- The rollout of the BHRNs was not without concerns:
 - [SOS Audit 2023-03](#) identified substantial inefficiencies and funding delays from the state to local BHRNs.
 - Funds in BM 110 were shifted from the Oregon State Police, the state school fund, and local governments.



Ballot Measure 110 Framework for Possession Crimes

Pre-Nov. 2020 Approach
Felony <ul style="list-style-type: none"> Subject has a prior felony conviction Subject has 2 or more PCS misdemeanor convictions Subject is convicted of a commercial drug offense Subject possesses more than a user quantity of drugs
Class A Misdemeanor <ul style="list-style-type: none"> Subject possesses a user quantity of controlled substances

BM 110 Framework
Felony <ul style="list-style-type: none"> Subject is convicted of a commercial drug offense Subject possesses a substantial quantity of drugs
Class A Misdemeanor <ul style="list-style-type: none"> Subject possesses more than a user quantity of drugs but less than a substantial quantity
Class E Violation <ul style="list-style-type: none"> Subject possesses a user quantity of controlled substances

User Quantity	Substantial Qty
Heroin: ≥1g	Heroin: ≥5g
MDMA: ≥1g or 5 pills	MDMA: ≥5g or 25 pills
Cocaine: ≥2g	Cocaine: ≥10g
Meth: ≥2g	Meth: ≥10g
LSD: ≥40 units	LSD: ≥200 units
Psilocybin: ≥12g	Psilocybin: ≥60g
Methadone: ≥40g	
Oxycodone: ≥40 pills	
Fentanyl: ≥1g or 5 units	Fentanyl: ≥5g or 25 units

Ballot Measure 110 Framework for Possession Crimes

BM 110 Classifications with Sentencing Impact

Felony Charge	Sentence
<ul style="list-style-type: none"> Commercial Drug Offense Possessing a substantial quantity of drugs 	<ul style="list-style-type: none"> Crime Category 8 Crime Category 6
Class A Misdemeanor Charge	Sentence
<ul style="list-style-type: none"> Subject possesses more than a user quantity of drugs but less than a substantial quantity 	<ul style="list-style-type: none"> Up to 364 days in jail and a \$6,250 fine
Class E Violation	Sentence
<ul style="list-style-type: none"> Subject possesses a user quantity of controlled substances 	<ul style="list-style-type: none"> Presumptive \$100 fine that was waived and dismissed if subject took a health assessment If no assessment, judgment of guilty w/o additional sanctions

Oregon's Felony Grid

Crime Seriousness	A	B	C	D	E	F	G	H	I	Prob Term	Max Depart	PPS
11	225-269	196-224	178-194	164-177	149-163	135-148	129-134	122-128	120-121	5 Years		3 Years
10	121-130	116-120	111-115	91-110	81-90	71-80	66-70	61-65	58-60			
9	66-72	61-65	56-60	51-55	46-50	41-45	39-40	37-38	34-36			
8	41-45	35-40	29-34	27-28	25-26	23-24	21-22	19-20	16-18	3 Years	18 Mos.	
7	31-36	25-30	21-24	19-20	16-18	180-90	180-90	180-90	180-90			
6	25-30	19-24	15-18	13-14	10-12	180-90	180-90	180-90	180-90	2 Years	12 Mos.	2 Years
5	15-16	13-14	11-12	9-10	6-8	180-90	120-60	120-60	120-60			
4	10-11	8-9	120-60	120-60	120-60	120-60	120-60	120-60	120-60	2 Years		
3	120-60	120-60	120-60	120-60	120-60	120-60	90-30	90-30	90-30			
2	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	1 1/2 Years	6 Mos.	1 Year
1	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30			

Commercial Drug Offense Factors

Poss \$300+ cash	Stolen property	Dangerous security
Packing materials	Drug records	Weapon use
Modification of structure	Manu paraphernalia	DCS for consideration
PCS >3g heroin, 8g coke/meth, 20 units LSD, 4g/20 pills ecstasy	MCS on public land	

BM110 in Oregon

- Introduction
- E-Violations between 2021-2024
- Overdose Deaths



Decriminalization: 2020-2024

- The establishment causal connections between BM 110 and outcomes is difficult due to the co-occurrence of the COVID-19 pandemic.
- Implementation Challenges:
 - Oregon was not well situated to handle decriminalization when BM 110 was passed. Prior to BM 110, Oregon was:
 - Top 5 for prevalence of drug use/abuse
 - Ranked 48th in treatment capacity/access
 - While BM 110 sought to fill the treatment gap through marijuana taxes, decriminalization occurred well before funding could flow to local jurisdictions
 - The first BHRN grant approval occurred on 4/13/2022, approximately 17 months after BM100 passed.



Decriminalization: 2020-2024

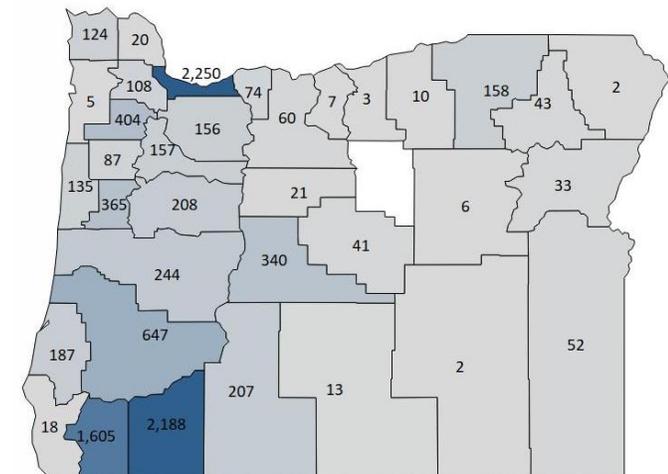
- Unsurprisingly, the number of arrests for PCS fell substantially post-BM110.
- The issuing of E-Violations for possession, however, did not even come close to filling the gap.
 - Law enforcement buy-in regarding the issuance of E Violations was highly localized.
 - Only 7% of individuals receiving an E-Violation had verified substance use/abuse assessment.
 - 88% of cases involving an E-Violation resulted in a conviction. The vast majority of convictions resulted when the individual failed to appear in court.
- Drug enforcement was also frustrated by changes to Oregon law regarding drug delivery and searches/seizures.

Trends in PCS Arrests and E-Violations

Year	PCS Arrests		PCS E-Violations	
	Monthly Avg	Total	Monthly Avg	Total
2017	1,335	16,021	--	--
2018	1,157	13,880	--	--
2019	1,245	14,934	--	--
2020	738	8,853	--	--
2021	264	3,163	162	1,783
2022	160	1,915	168	2,020
2023	217	2,635	287	3,444
2024†	417	5,004	344	2,748

† Jan to 31 Aug 2024 (HB 4002 went into effect on 1 Sep 2024)

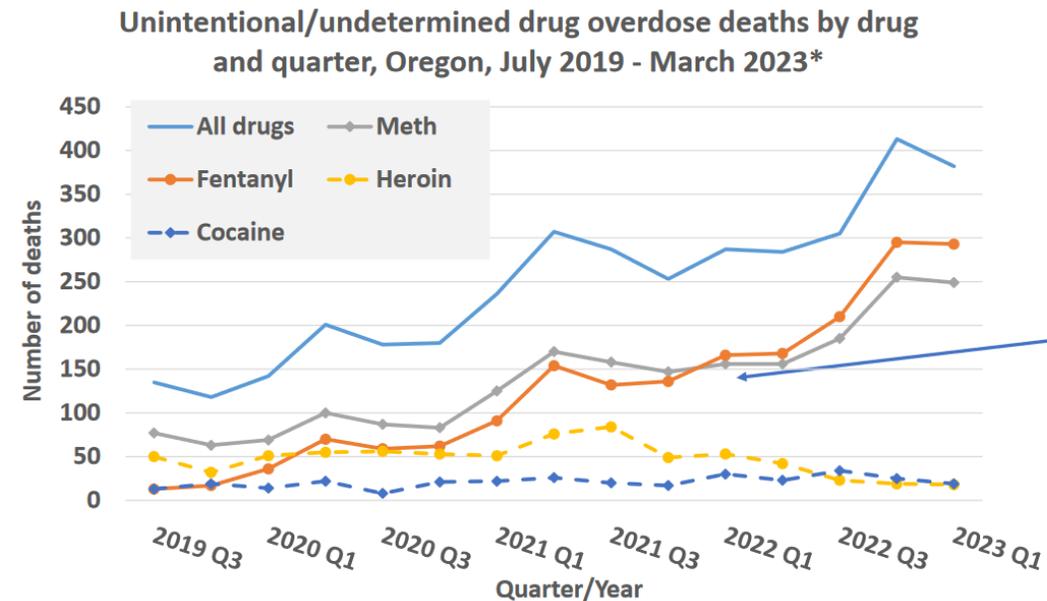
Total VE Cases: 9,980
February 1, 2021 - August 30, 2024



Decriminalization: 2020-2024

- The passage of BM 110 also coincided with the proliferation of fentanyl on the west coast. Fentanyl began to overtake heroin in overdose cases in the months preceding the ballot measure.
- By 2022, with overdose deaths increasing, fentanyl even overtook methamphetamine as the leading cause of overdose deaths in Oregon.

Oregon Overdose Deaths, July 2019 – March 2023



Fentanyl deaths newly exceeded methamphetamine deaths in 2022

Source: Oregon State Unintentional Drug Overdose Reporting System (SUDORS), 2023

Drug Recriminalization in Oregon

- The threat of a ballot measure
- Legislative response via HB 4002
- Conditional Discharge
- Deflection Program Implementation
- Final System Comparison

HEALTH

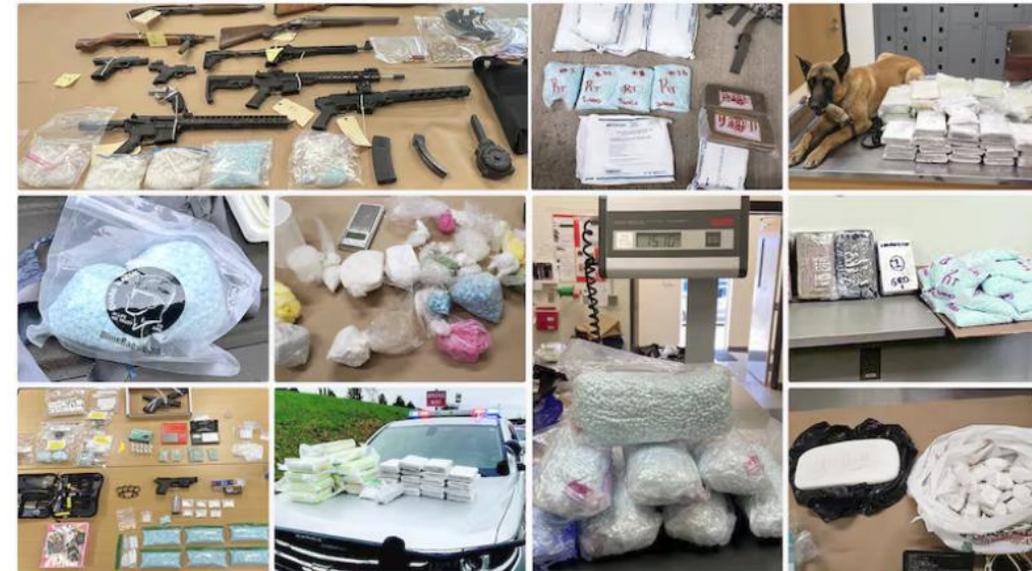
'It's crazy out there': The reasons behind Oregon's deepening drug crisis



By **Conrad Wilson** (OPB)
May 30, 2023 5 a.m.

Fueled by fentanyl, the number of overdose deaths in Oregon has soared since 2019. And while the surge in overdoses is part of a national problem, the state's underfunded treatment system is struggling to provide local solutions

Editor's note: Throughout 2023, OPB is taking a deep look at the biggest social and economic challenges facing Oregon today — their origins, their impacts and possible solutions. This week we are looking at Oregon's drug crisis.



Recriminalization: Ballot Measure

- In mid-2023, a coalition of policy-makers, interested citizens, and others began to build momentum behind a ballot measure that would have repealed Measure 110 in whole or in part.
- The coalition gained steam very quickly, raising approximately \$10M in conduct their campaign.
- The appearance of this new ballot initiative,, began to motivate the Legislature to begin discussions around reforming BM 110 and led to the eventual passage of HB 4002.

Push to change Measure 110 gains momentum and money

A coalition has filed ballot initiatives to prohibit hard drug use in public places and has \$700,000 lined up from donors, including Phil Knight

BY: BEN BOTKIN - SEPTEMBER 18, 2023 5:25 PM



HB 4002: Changes to Drug Possession

- HB 4002 created a new, unranked, “drug enforcement misdemeanor” for possession of user amounts of drugs, replacing the E-Violation.
- Sentencing Structure:
 - Courts may impose 180-day jail sentence or an 18-month probation sentence (which can be extended by agreement).
 - Up to 30 days of structured jail sanctions can be ordered by the court for violation of probation terms.
 - If probation is revoked, the court may impose a 180-day jail sentence.
 - Courts are prohibited from imposing fines or fees for individuals convicted of the drug enforcement misdemeanor.

HB 4002 Framework

Felony

- Subject is convicted of a commercial drug offense
- Subject possesses a substantial quantity of drugs

Class A Misdemeanor

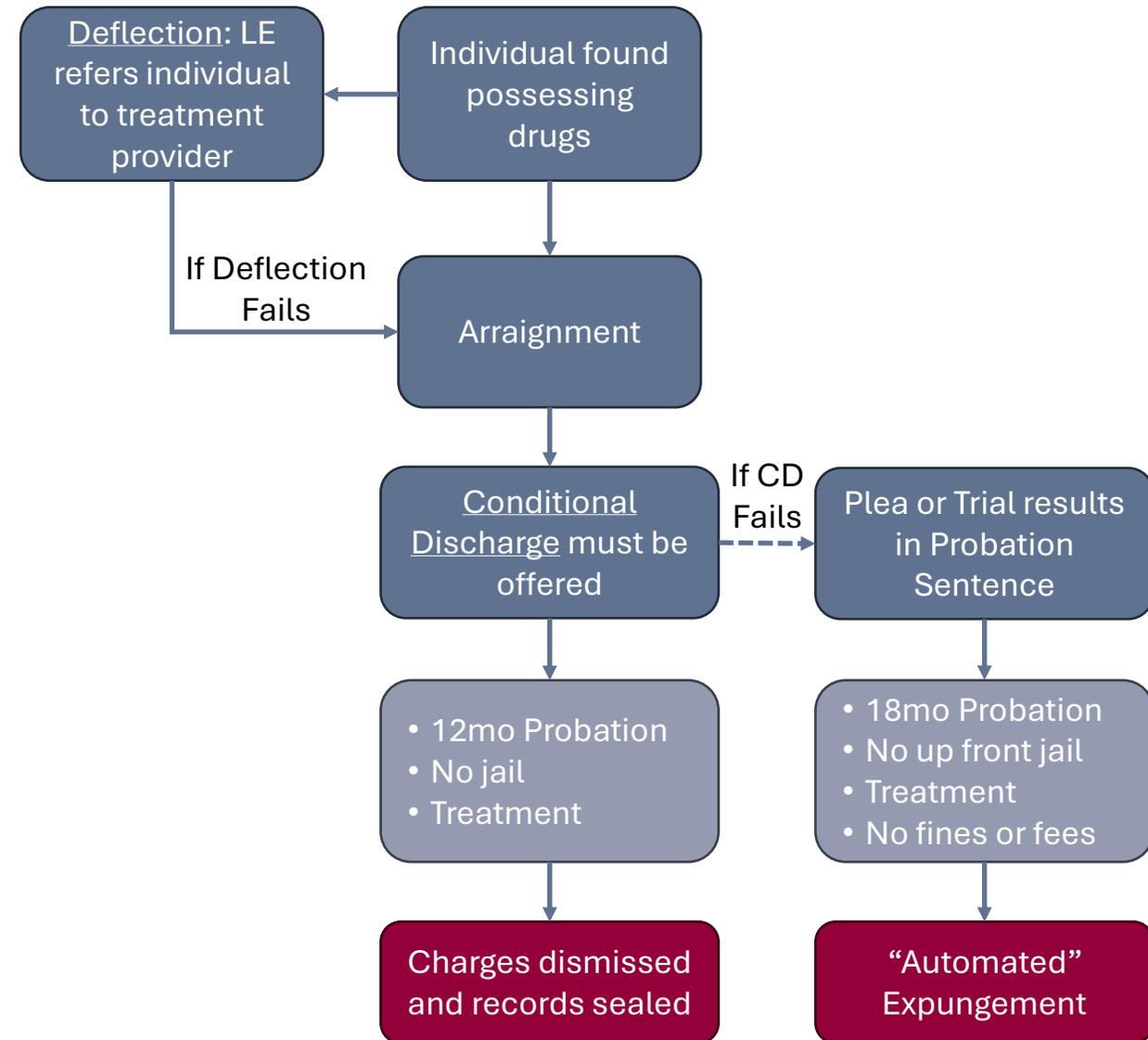
- Subject possesses more than a user quantity of drugs but less than a “substantial” quantity

Unranked DEM Misdemeanor

- Subject possesses a user quantity of drugs.

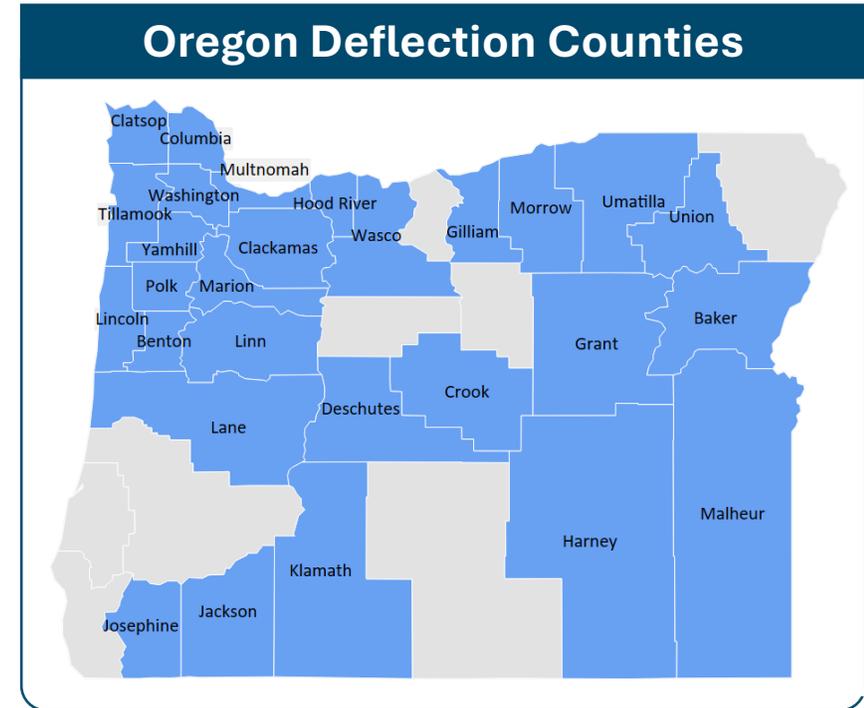
Recriminalization: Deflection & Conditional Discharge

- In keeping with the spirit of BM 110, HB 4002 also sought to bolster and/or create “off ramps” from the system for folks with SUD needs.
- This includes the new Oregon Behavioral Health Deflection grant, along with the expansion of the preexisting conditional discharge program.



Recriminalization: Deflection Implementation

- What is deflection?
 - Deflection is a “collaborative program between law enforcement and behavioral health systems that assist individuals with substance use disorders ... to create community-based pathways to treatment, recovery support services, housing, case management, and other services.” (HB 4002)
- The Oregon Behavioral Health Deflection grant was funded with \$20,708,200 to be distributed, by formula, to Oregon’s counties and nine federally recognized Tribes.
- 28 counties (representing 94% of Oregon’s population) applied for and received funding to create deflection programs. As of February 1, 25 are operational and accepting deflection clients.



Recriminalization: Deflection Program Examples

Grant County (\$150,000)

Model: Grant County's program includes both officer intervention and Mobile Crisis Team response efforts. Any citations will be held in abeyance if the individual is eligible for and agrees to enter deflection.

Eligibility: Individuals who face charges for possession (possibly including low-level non-person misdemeanor charges), are eligible for participation. Those who pose a community safety threat, are on community or formal court supervision of any type, have a previous exclusionary conviction, or who have previously failed a deflection are excluded from the program.

Completion/Success: Participant success is currently defined as meeting their treatment plan goals and no longer needing support to maintain those goals or having been compliant with treatment recommendations for four consecutive months since enrollment.

Josephine County (\$788,274)

Model: Josephine County's program employs an officer intervention model that envisions minimal criminal justice system involvement (i.e., no charges are filed or held in abeyance). Additionally, Josephine County utilizes the Grants Pass Sobering Center for available services, treatment, and referrals.

Eligibility: Josephine County residents who face charges for PCS and/or other low-level offenses, individuals on parole or probation (at the discretion of parole officer), as well as members of the high-risk population with no criminal activity. Those who pose a community safety threat, have previously been deflected, or who have a previous exclusionary conviction are excluded.

Completion/Success: defined as receipt of a screening at the sobering center and a clinical ASAM assessment by a substance use treatment provider.

Yamhill County (\$541,450)

Model: Yamhill County employs an officer intervention model.

Eligibility: Yamhill County residents who face charges for single-offense PCS and non-victim, low-level misdemeanor crimes, with criminal charges held in abeyance. Those on community supervision or with a previous exclusionary conviction are excluded from participating in Yamhill County's deflection program.

Completion/Success: The county offers a tiered completion model, through which participants may choose between a six-month and 90-day treatment plan based on desired levels of engagement and submission(s) of urinalysis.

Recriminalization: System Comparisons

BM 110 PCS Classifications & Sentencing Impact		HB 4002 PCS Classifications & Sentencing Impact	
Felony Charge	Sentence	Felony Charge	Sentence
<ul style="list-style-type: none"> Commercial Drug Offense Possessing a substantial quantity of drugs 	<ul style="list-style-type: none"> Crime Category 8 Crime Category 6 	<ul style="list-style-type: none"> Commercial Drug Offense Possessing a substantial quantity of drugs 	<ul style="list-style-type: none"> Crime Category 8 Crime Category 6
Class A Misdemeanor Charge	Sentence	Class A Misdemeanor Charge	Sentence
<ul style="list-style-type: none"> Possession of more than a user quantity of drugs but less than a substantial quantity 	<ul style="list-style-type: none"> Up to 364 days in jail and a \$6,250 fine 	<ul style="list-style-type: none"> Possession of more than a user quantity of drugs but less than a substantial quantity 	<ul style="list-style-type: none"> Up to 364 days in jail and a \$6,250 fine
Class E Violation	Sentence	Unranked DEM Misdemeanor	Sentence
<ul style="list-style-type: none"> Subject possesses a user quantity of drugs 	<ul style="list-style-type: none"> Presumptive \$100 fine that was waived and dismissed if subject took a health assessment If no assessment, judgment of guilty w/o additional sanctions 	<ul style="list-style-type: none"> Subject possesses a user quantity of drugs 	<ul style="list-style-type: none"> Must offer Conditional Dischg If no CD, then 180 days in jail or 18 months probation Up to 30 days of structured jail sanctions No fines or fees can be imposed



Questions?



Contact:

Ken Sanchagrin
ken.sanchagrin@cjc.oregon.gov
971-719-6000



Feedback?