

**ALASKA STATE LEGISLATURE  
JOINT MEETING  
SENATE JUDICIARY STANDING COMMITTEE  
HOUSE JUDICIARY STANDING COMMITTEE**

February 19, 2025

1:33 p.m.

**MEMBERS PRESENT**

SENATE JUDICIARY

Senator Matt Claman, Chair  
Senator Jesse Kiehl, Vice Chair  
Senator Gary Stevens  
Senator Löki Tobin  
Senator Robert Myers

HOUSE JUDICIARY

Representative Andrew Gray, Chair  
Representative Chuck Kopp, Vice Chair  
Representative Ted Eischeid  
Representative Genevieve Mina  
Representative Sarah Vance  
Representative Jubilee Underwood

**MEMBERS ABSENT**

SENATE JUDICIARY

All members present

HOUSE JUDICIARY

Representative Mia Costello

**COMMITTEE CALENDAR**

PRESENTATION(S): OREGON DRUG POLICY FROM DECRIMINALIZATION TO RECRIMINALIZATION

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

KEN SANCHAGRIN, Executive Director  
Oregon Criminal Justice Commission  
Oregon State Government  
Salem, Oregon

**POSITION STATEMENT:** Presented an overview on the Oregon drug policy from decriminalization to recriminalization.

**ACTION NARRATIVE**

[1:33:33 PM](#)

CHAIR CLAMAN called the Senate Judiciary Standing Committee to order at [1:33 p.m.] He said this meeting was originally scheduled as a joint meeting of the Senate and House Judiciary Standing Committees; however, the representatives are detained on the House floor. He said he will reconvene jointly if House members arrive in time.

Present at the call to order were Senators Stevens, Kiehl, Myers, and Chair Claman. Senator Tobin arrived immediately thereafter. He noted the arrival of Representatives Kopp, Eischeid, Mina, Vance, Underwood, and Chair Gray shortly thereafter, and announced that the joint meeting officially began at 1:48 p.m.

**PRESENTATION(S) : OREGON DRUG POLICY**  
**FROM**  
**DECRIMINALIZATION TO RECRIMINALIZATION**

[1:34:24 PM](#)

CHAIR CLAMAN announced a presentation titled "Oregon Drug Policy from Decriminalization to Recriminalization" from the Oregon Criminal Justice Commission.

CHAIR CLAMAN invited Mr. Sanchagrin to put himself on record and begin his presentation.

[1:34:40 PM](#)

SENATOR TOBIN joined the meeting.

[1:35:08 PM](#)

KEN SANCHAGRIN, Executive Director, Oregon Criminal Justice Commission, Oregon State Government, Salem, Oregon, presented an

overview on the Oregon drug policy from decriminalization to recriminalization. He said the Commission is responsible for policy analysis and evaluation and the awarding of local public safety grants. He said the Oregon drug policy has taken a winding road with a lot of ups and downs over the last seven or eight years. He said that to understand Oregon's journey, it is necessary to know some background for context before the state went through its experiment with decriminalization starting in 2020.

[1:36:07 PM](#)

MR. SANCHAGRIN moved to slide 2, Drug Decriminalization in Oregon:

[Original punctuation provided.]

**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

MR. SANCHAGRIN said drug recriminalization began last year.

The slide showed a Rolling Stone magazine article titled, "Drug Decriminalization Goes Into Effect in Oregon" dated February 1, 2021. The subheading indicated that Ballot Measure (BM) 110 prioritized drug treatment over police enforcement and would use cannabis revenue to open new addiction treatment centers across the state.

[1:36:48 PM](#)

MR. SANCHAGRIN moved to slide 3, Decriminalization: HB 2355 (2017).

[Original punctuation provided.]

**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 percent
  - Misdemeanor convictions rose from >5 percent annually to 50 percent.
  - 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

[1:36:54 PM](#)

MR. SANCHAGRIN corrected a typo, stating that prior to 2017 possession of controlled substances in Oregon was a felony in nearly all circumstances. He said this slide mistakenly listed possession as a C felony, whereas the offense could have been charged as a B felony, C felony, or in rare cases a B or C misdemeanor, depending on the drug's classification under the national schedule.

MR. SANCHAGRIN explained that HB 2355 created for the first time a new A misdemeanor classification for possession of a new amount of drugs called a "user quantity." An individual found with that "user quantity," absent a prior felony conviction or prior A misdemeanor convictions for these "user quantity" possessions, would be charged at the A misdemeanor level. He said the chart reflects the new user quantity thresholds established by HB 2355, contrasted with the prior system in which nearly all offenses were felonies.

MR. SANCHAGRIN reported that over the first few years HB 2355 led to an overall reduction in arrests for possession of controlled substances. He explained that local law enforcement often weighed whether it was worth booking someone on the new A misdemeanor classification since those individuals were frequently released soon after. Many found it was not quite worth the effort that the felony level had been in the past. This contributed to an 18 percent reduction in overall drug related arrests across the board.

MR. SANCHAGRIN said that within the first year of the passage of HB 2355, misdemeanor convictions rose significantly. Whereas B and C misdemeanors had previously made up less than 5 percent of possession of a controlled substance (PCS) convictions, they quickly rose to about 50 percent and remained at that level until passage of Ballot Measure (BM) 110. He saw a reduction in first-time felons, which was the main motivation behind the defelonization movement. He also observed a reduction in racial disparities at the felony level for possession of controlled substances, though those disparities largely shifted to the misdemeanor level. In that sense, it was a net positive, but the disparities persisted.

[1:39:57 PM](#)

MR. SANCHAGRIN moved to slide 4, Decriminalization: BM 110.

[Original punctuation provided.]

**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%)

MR. SANCHAGRIN drew attention to a picture of the actual ballot measure on slide 4. He said the summary itself is important and recommended the committee read through it as members consider what may have driven voting patterns for the ballot measure. Slide 4 also showed voting results by county. He said, unsurprisingly, the greatest levels of support were through the Portland Metro Area and down the I-5 corridor, which has a majority of Oregon's population.

[1:41:33 PM](#)

MR. SANCHAGRIN moved to slide 5, BM 110 Treatment:

[Original punctuation provided.]

**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 substance use disorder (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.

MR. SANCHAGRIN said the funding infusion was a long welcome change because Oregon had long suffered from a dearth of substance use disorder (SUD) treatment resources. He said Oregon

was ranked 48<sup>th</sup> prior to the passage of BM 110 in access to treatment and is consistently ranked in the top 5 as far as addiction need, which is a fairly poor combination. He said it took a few years to get BM 110 treatment funds adequately flowing out the door to Behavioral Health Resource Networks (BHRNs). Slide 5 has three diagrams showing the distribution of funds among a multitude of BHRNs in Washington, Benton, Douglas, and Multnomah counties.

[1:43:08 PM](#)

MR. SANCHAGRIN moved to slides 6 and 7, Ballot Measure 110 Framework for Possession Crimes, which shows the framework for how Oregon's possession laws were reclassified:

[Original punctuation provided.]

### **Ballot Measure 110 Framework for Possession Crimes**

#### **Pre-Nov. 2020 Approach**

##### **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

#### **BM 110 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

##### **Class E Violation**

Subject possesses a user quantity of controlled substances

##### **User Quantity**

Heroin: ≥1g  
MDMA: ≥1g or 5 pills  
Cocaine: ≥2g  
Meth: ≥2g

##### **Substantial Qty**

Heroin: ≥5g  
MDMA: ≥5g or 25 pills  
Cocaine: ≥10g  
Meth: ≥10g

LSD: ≥40 units  
Psilocybin: ≥12g  
Methadone: ≥40g  
Oxycodone: ≥40 pills  
Fentanyl: ≥1g or 5 units

LSD: ≥200 units  
Psilocybin: ≥60g  
Fentanyl: ≥5g or 25 units

[1:43:26 PM](#)

MR. SANCHAGRIN said Oregon retained the Class A misdemeanor classification for possession and following passage of BM 110, created a new Class E violation. He noted there had never been an offense in Oregon law at so low a level before. This new violation was established specifically for certain types of drug possession.

MR. SANCHAGRIN explained that under HB 2355, which he refers to as the pre-November 2020 approach, possession was a felony in most cases unless the amount was a defined "user quantity" and the individual had no prior felony record. In these cases, the crime was treated as a misdemeanor. BM 110 introduced a step down from each of the prior categories by creating the new Class E violation, along with a new system of weight-based classifications. "User quantity" was the lowest level of drug offense, the Class E violation. He said larger, "substantial quantities" remained felonies and the amounts in the middle were Class A misdemeanors. Most individuals possessed the lower amounts, falling into the new Class E classification.

[1:44:56 PM](#)

MR. SANCHAGRIN continued reviewing Ballot Measure 110 Framework for Possession Crimes, slide 7. He discussed its sentencing impact, focusing on misdemeanor and Class E violation charges:

[Original punctuation provided.]

#### **BM 110 Classifications with Sentencing Impact**

##### **Felony Charge**

- Commercial Drug Offense
- Possessing a substantial quantity of drugs

##### **Sentence**

- Crime Category 8
- Crime Category 6

##### **Class A Misdemeanor Charge**

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

##### **Sentence**

- Up to 364 days in jail  
a \$6,250 fine

**Class E Violation**

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

**Sentence**

- Presumptive \$100 fine that was waived and dismissed if subject took a health assessment
- If no assessment, judgment of guilty w/o additional sanctions

1:45:01 PM

MR. SANCHAGRIN explained that in Oregon, any Class A misdemeanor is punishable by up to 364 days in jail and a \$6,250 fine. He said this would be the charge if a person possessed the middle amount of drugs. In contrast, the motivation behind the Class E violation and passage of BM 110 was to pull individuals possessing user quantities of drugs out of the criminal justice system almost entirely, and to try to address their needs in the public health system. He said that essentially the Class E violation carried a presumptive \$100 fine, waived if the person completed a health assessment within the specified time. The individual could do an in-person assessment at a local BHRN center or could call a posted number. He noted that the presumptive \$100 fine was waived if the individual took a health assessment. If the person failed to complete the assessment or make the call, the judgment of guilty remained on their record. However, there were no additional sanctions: no further fines, and no charge of failure to appear if they missed court. He said the law attempted to limit the accountability from a criminal justice perspective for anybody with the E violation.

1:46:42 PM

MR. SANCHAGRIN continued on slide 7 and said felony possession charges continued to depend on drug quantity and whether the prosecutor could show three indicators from the Commercial Drug Offense Factors, shown below. If these criteria were proved in court, the case could be charged as a commercial drug offense and placed in crime category 8, which typically resulted in prison. He said this is the most common way possession of controlled substances led to a prison sentence in Oregon, while most other cases resulted in probation.

[Original punctuation provided.]

**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	

Slide 7 also pictured Oregon's Felony Grid chart [used for sentencing].

[1:47:41 PM](#)

MR. SANCHAGRIN moved to slide 8, BM110 in Oregon:

[Original punctuation provided.]

**BM110 in Oregon**

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

MR. SANCHAGRIN said he will discuss what the results looked like in Oregon post-Ballot Measure 110, noting that causal connections are difficult to make between BM 110 and the outcomes Oregon saw in the intervening years from 2020 to 2024.

[1:48:01 PM](#)

CHAIR CLAMAN acknowledged the presence of Representative Underwood and announced that this is officially a joint meeting of the Senate and House Standing Judiciary Committees.

[1:48:25 PM](#)

MR. SANCHAGRIN moved to slides 9 - 11, Decriminalization: 2020-2024:

[Original punctuation provided.]

**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 BM 110 passed.

[1:49:38 PM](#)

MR. SANCHAGRIN continued with the discussion of Decriminalization: 2020-2024 on slide 10.

[Original punctuation provided.]

**Decriminalization: 2020-2024 (continued)**

- 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.

[1:50:47 PM](#)

MR. SANCHAGRIN drew attention to the map of counties on slide 10. He said the number of E violations issued per county illustrates how differently local police approached the new system. In some counties, such as Jackson and Josephine shown in dark blue on the map, law enforcement viewed E violations as a voter mandate. Officers felt a responsibility to issue them so communities could understand local drug trends. They were vigorous in issuing E violations; however, this was unique across the state in comparison to other counties. He said there was a lot of variation in how local law enforcement received or bought in to the E violation approach.

- Only 7 percent of individuals receiving an E-Violation had verified substance use/abuse assessment.

- 88 percent 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**

<b>Year</b>	<b><u>PCS Arrests</u></b>		<b><u>PCS E-Violations</u></b>	
	<b>Monthly</b>	<b>Avg Total</b>	<b>Monthly Avg</b>	<b>Total</b>
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)

[1:52:32 PM](#)

MR. SANCHAGRIN noted that another factor which complicates assessing outcomes was that drug enforcement overall was affected by court cases that changed the standard for prosecuting drug dealing. He said that he did not have time to talk about this today. He said these particular court case changes made it more difficult to address the drug use and abuse in the streets as the number of prosecutions for drug delivery and manufacturing also fell fairly substantially during this time.

[1:53:03 PM](#)

MR. SANCHAGRIN continued with the discussion of Decriminalization: 2020-2024 on slide 11, stating the decriminalization and the passage of BM 110 corresponded with an uptick in overdose deaths:

[Original punctuation provided.]

**Decriminalization: 2020-2024 (continued)**

- 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.

A chart on slide 11 depicted the number of unintentional or undetermined drug overdose deaths from July 2019 to March 2023.

[1:53:47 PM](#)

MR. SANCHAGRIN moved to slide 12, Drug Recriminalization in Oregon:

[Original punctuation provided.]

**Drug Recriminalization in Oregon**

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

The slide showed a newspaper clipping headline, reading "It's crazy out there: The reasons behind Oregon's deepening drug crisis. The subheading read "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."

[1:53:52 PM](#)

MR. SANCHAGRIN moved to slide 13, Recriminalization: Ballot Measure:

[Original punctuation provided.]

**Recriminalization: Ballot Measure**

- In mid-2023, a coalition of policymakers, 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 to 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.

The slide pictured an Oregon Capital Chronical article, which read "Push to change Measure 110 gains momentum and money." It said a coalition filed ballot initiatives to prohibit hard drug use in public places and had \$700,000 lined up from donors.

[1:55:02 PM](#)

MR. SANCHAGRIN moved to slide 14, HB 4002: Changes to Drug Possession:

[Original punctuation provided.]

#### **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 (DEM).

#### **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.

[1:56:22 PM](#)

MR. SANCHAGRIN moved to slide 15, Recriminalization: Deflection & Conditional Discharge:

[Original punctuation provided.]

**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.

[1:56:32 PM](#)

MR. SANCHAGRIN described the deflection and conditional discharge flowchart on slide 15. He said the legislature was receptive to advocates who argued that not everyone using drugs requires a criminal justice intervention. Some individuals benefits from alternative approaches, and the legislature sought to create options for early diversion.

MR. SANCHAGRIN explained that conditional discharge was an existing program that was strengthened under HB 4002. In this program, a case is held in abeyance during a probation term. If the individual successfully completes 12 months, the case is dismissed and may be expunged.

[1:57:20 PM](#)

MR. SANCHAGRIN said the legislature also created the Oregon Behavioral Health Deflection Program, or deflection grant. Counties were encouraged to set up local deflection programs that intervene even earlier than conditional discharge. Under this system, if an officer encounters an individual in possession of a user quantity of drugs, the officer may, if the individual wants to, refer the person to a deflection or stabilization center instead of booking them into jail. This "light-touch" approach allows individuals to avoid the criminal justice system almost entirely, depending on local program

design. The approach is noncriminal justice system focused. If, however, the person possesses more than a user quantity, or does not choose deflection, the case proceeds through the criminal justice system where conditional discharge becomes available.

[1:58:33 PM](#)

MR. SANCHAGRIN moved to slide 16 Recriminalization: Deflection Implementation. He said the role that the Criminal Justice Commission plays in this new approach is that it is the funder of local county deflection programs.

[Original punctuation provided.]

**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.

[1:58:48 PM](#)

CHAIR CLAMAN recognized the presence of Chair Gray and Representative Vance.

[1:59:02 PM](#)

MR. SANCHAGRIN continued the discussion on slide 16, stating that deflection is a collaborative program between law enforcement and behavioral health designed to create community-based pathways to treatment and recovery. He reported the program was funded with \$20 million in its first year. Twenty-eight counties, representing the majority of Oregon's population, applied for and received funding to establish deflection programs. As of February 1, 2025, programs are operational and accepting referrals.

Slide 16 pictured an Oregon map and the following as "deflection" counties: Clatsop, Columbia, Multnomah, Washington, Hood River, Gilliam, Morrow, Umatilla, Union, Tillamook, Clackamas, Wasco, Yamhill, Polk, Marion, Lincoln, Benton, Linn, Grant, Baker, Lane, Deschutes, Crook, Harney, Malheur, Josephine, Jackson, and Klamath.

[1:59:35 PM](#)

MR. SANCHAGRIN moved to slide 17, Recriminalization: Deflection Program Examples. He said this slide shows examples of deflection programs.

[Original punctuation provided.]

### **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 the 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.

[1:59:42 PM](#)

MR. SANCHAGRIN said the exact structure of a deflection program varies by county. Some counties impose stricter entrance or success requirements than others, but all focus primarily on individuals charged with drug enforcement misdemeanors and, in some cases, other low-level quality-of-life offenses. He said the main goal of these programs is to connect individuals with treatment. Program duration also varies, ranging from about one month to as long as six months, depending on the county.

[2:00:26 PM](#)

MR. SANCHAGRIN moved to slide 18, Recriminalization: System Comparisons.

[Original punctuation provided.]

**BM 110 PCS Classifications & Sentencing Impact**

<b><u>Felony Charge</u></b>	<b><u>Sentence</u></b>
Commercial Drug Offense	Crime Category 8
Possessing a substantial quantity of drugs	Crime Category 6

<u>Class A Misdemeanor Charge</u>	<u>Sentence</u>
Possession of more than a user quantity of drugs but less than a substantial quantity	Up to 364 days in jail and a \$6,250 fine
<u>Class E Violation</u>	<u>Sentence</u>
Subject possesses a user quantity of drugs	Presumptive \$100 fine that was waived and dismissed if subject took a health assessment
	If no assessment, judgment of guilty w/o additional sanctions

**HB 4002 PCS Classifications & Sentencing Impact**

<u>Felony Charge</u>	<u>Sentence</u>
Commercial Drug Offense	Crime Category 8
Possessing a substantial quantity of drugs	Crime Category 6
<u>Class A Misdemeanor Charge</u>	<u>Sentence</u>
Possession of more than a <b>user quantity</b> of drugs but less than a <b>substantial quantity</b>	Up to 364 days in jail and a \$6,250 fine
<u>Unranked DEM Misdemeanor</u>	<u>Sentence</u>
Subject possesses a user quantity of drugs	Must offer Conditional Discharge
	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

[2:00:28 PM](#)

MR. SANCHAGRIN said the charts above compare the sentencing impacts before and after Ballot Measure 110, as well as under the current HB 4002 recriminalization legislation. He explained that felony and Class A misdemeanor provisions remained largely unchanged, while reforms focused on individuals possessing a user quantity of drugs. The approach shifted from a presumptive \$100 fine and phone call, where engagement was low, to a system offering deflection. If deflection is declined, conditional discharge is offered, though participation is optional.

[2:01:22 PM](#)

CHAIR CLAMAN acknowledged the presence of Representatives Kopp and Mina.

[2:01:32 PM](#)

MR. SANCHAGRIN continued discussing slide 18, noting that these sentencing effects occurred in September 2024 and are still in the early stages of the process. He said the Oregon Criminal Justice Commission maintains a public dashboard tracking each stage of the process, from arrest and deflection to court cases and convictions.

[2:02:20 PM](#)

SENATOR TOBIN referred to slide 18, expressing interest in how the ballot measure approach compares to comprehensive legislative policy developed with expert engagement. She noted that Alaska's ballot measure process may differ from Oregon's and requested more details about Oregon's process.

[2:03:03 PM](#)

MR. SANCHAGRIN replied that this ballot measure was well put together. Voters see ballot measure summaries in the voters' pamphlet. He explained that everyone in Oregon votes by mail, receiving both a ballot and a detailed voter pamphlet. He said the Secretary of State prepares the summary for each ballot measure, which is typically what most voters read and therefore draws the most debate. He said about five pages of comprehensive statutory language changes were included in the pamphlet, but many voters rely only on the summary.

MR. SANCHAGRIN stated that the ballot measure contained comprehensive statutory language but also had inadvertent gaps, such as the omission of fentanyl. The Oregon legislature addressed these technical issues through the passage of a technical fix bill, SB 755. He noted that political sentiment at the time was that the people had spoken, but some technical

corrections were necessary. He said there were some other very deep technical issues.

MR. SANCHAGRIN said the development of HB 4002, during the 2024 session, was more integrated. He said lawmakers and experts worked extensively to refine the policy. He said they did not get everything right and the bill required a technical fix bill. He expressed his belief, however, that it was more holistic and comprehensive than the ballot measure.

[2:05:33 PM](#)

SENATOR MYERS asked about Class E violations, stating that they appeared to be treated almost like traffic citations. He asked whether a Class E violation, followed by a later arrest, could serve as an aggravating factor for future prosecutions and convictions.

MR. SANCHAGRIN confirmed that Class E violations were essentially treated like traffic tickets, though technically lower than most traffic tickets. He explained that the Class E violation was newly created in Oregon, and before that, the state had nothing lower than a Class D violation. He said a Class E violation would appear in the court record history and certain data systems, but it could not be used under sentencing guidelines to elevate a future sentence. He compared it to traffic citations in Oregon, which do not affect sentencing levels.

[2:06:49 PM](#)

SENATOR MYERS asked whether the same applied to the new drug misdemeanor, meaning it could not serve as an aggravating factor.

MR. SANCHAGRIN replied that prior misdemeanor drug offenses could serve as an aggravating factor. He explained that while those convictions still keep an offender low on the sentencing grid, they may influence how future cases are treated on the individual's record.

[2:07:17 PM](#)

SENATOR KIEHL referred to slide 11, which contained a chart on the number of Oregon overdose deaths from July 2019 to March 2023. He asked how closely the chart's trend lines track with neighboring states, particularly Washington. He said that during that time, Alaska saw a two and a half times increase in overdose deaths.

MR. SANCHAGRIN replied that the Oregon tracks most closely to Washington.

2:07:56 PM

SENATOR KIEHL referred to slide 10 which showed that 88 percent of cases involving an E violation resulted in a conviction. He recalled that the presenter mentioned most of those cases could have been disposed of with a phone call, but most offenders opted out of making one. The slide showed that the sentence for an E violation had a presumptive \$100 fine and asked whether any offenders paid it.

2:08:19 PM

MR. SANCHAGRIN expressed his belief that almost nobody paid the \$100 fine. He reiterated that the court could not charge anyone with failure to appear or impose additional sanctions, which eliminated the motivation to pay. He said the fine could not be sent to collections.

2:08:56 PM

SENATOR KIEHL inquired about Oregon's current system. He asked what the minimum consequence would be for possession of a user quantity, essentially, the lightest impact on a person's life.

MR. SANCHAGRIN replied that would be the deflection option. He explained that if an individual was found possessing a user quantity of drugs, an officer could, depending on the county, take that person directly to a stabilization center. For example, in Deschutes County, officers may bring individuals to a 24/7 respite center that provides substance use disorder (SUD) assessments and related support. He said that as long as the individual met the requirements of the local deflection program, they would have no further involvement with the criminal justice system.

2:10:04 PM

CHAIR GRAY said his inquiry stems from slide 11. His staff pulled numbers from the Oregon Health Authority, which were slightly higher than the numbers on slide 11. His office roughly tracked the number of unintentional opioid deaths from 2019 through the most recent numbers and found about a quadrupling of unintentional opioid deaths. He sought confirmation that these numbers align with those in Washington.

MR. SANCHAGRIN answered in the affirmative.

CHAIR GRAY presented a hypothetical thought experiment, asking whether the outcomes in Oregon might have been different without as much backlash if fentanyl had not existed and was not available anywhere.

[2:11:22 PM](#)

CHAIR CLAMAN recognized the presence of Representative Eischeid.

[2:11:29 PM](#)

MR. SANCHAGRIN clarified that Oregon's trends tracked closely to Washington, not necessarily in raw numbers, but in percentage increases. He addressed the thought experiment on fentanyl, noting that methamphetamine had long been the primary driver of overdose deaths in Oregon. Fentanyl began appearing in street drugs and eventually displaced heroin, contributing to the shift in overdose patterns.

MR. SANCHAGRIN replied that many of the same concerns would have emerged regardless, particularly in the post-COVID era, with rising houselessness and homelessness. He emphasized that overdose deaths, combined with the visible increase in public drug use, fueled public perception. He reiterated that Oregon had a court case that altered the standard for prosecuting delivery of controlled substances. This change, together with visible, unabated open-air drug markets and open-air drug use in places like downtown Portland, heightened concerns. He expressed his belief that whether the driver was methamphetamine or fentanyl may not have made too much of a difference, but certainly, this is hypothetical, so it is hard to know.

[2:13:30 PM](#)

CHAIR GRAY commented that as somebody who has worked in an emergency department, many meth users are able to consume more alcohol and opioids without falling asleep. He said this increases the likelihood that these individuals might ingest fentanyl or another opioid, even if an individual intends to use only meth. He remarked that it is difficult to determine which substance line, on slide 11, belongs where on the overdose chart since individuals often use multiple substances.

MR. SANCHAGRIN agreed, stating that Oregon sees poly-substance use in its data as well.

[2:14:18 PM](#)

SENATOR TOBIN referred to slide 18, stating the Recriminalization System Comparisons Chart provides an excellent comparison of BM 110 and HB 4002 approaches. She said she would

like to explore further what reporting will occur at the conclusion of the process, how often the legislature will revisit whether the approach is working, and how success will be gauged.

MR. SANCHAGRIN replied that the statute itself did not build in much mandatory reporting. He said the legislature had some concerns that recriminalization would bring about racial disparities that existed before decriminalization. As a result, the Oregon Criminal Justice Commission is required to file annual reports, with the first due in late summer of this year, analyzing racial disparities.

MR. SANCHAGRIN explained that part of the Commission's mission is to act as a nonpartisan data exchange and to keep the public informed about outcomes. He noted that the Commission maintains dashboards updated weekly, a cadence likely to continue for the foreseeable future. He has already presented six times on the data since HB 4002 passed. He said substantial data trends became visible beginning September 1 and developments are followed very closely.

[2:16:06 PM](#)

SENATOR TOBIN said that it would be enjoyable to hear back in a year about successes, lessons learned, and any other changes under consideration. She remarked that this is an interesting topic.

[2:16:29 PM](#)

CHAIR CLAMAN stated that he is present, in large part, because he will be presenting to the Criminal Justice Data Analysis Commission tomorrow, so the House and Senate Judiciary Committees are effectively getting a free preview. He noted that even if he could not appear in-person in the future, he was confident arrangements could be made for him to participate by video or other means.

[2:16:55 PM](#)

SENATOR MYERS asked about the impacts on recidivism rates, not only for drug offenses but also for misdemeanors and felonies in general. He asked about the trends which had been observed since 2017 notwithstanding the overlap of Oregon's efforts with the COVID-19 pandemic, which make comparisons difficult.

MR. SANCHAGRIN replied that prior to the ballot measure, Oregon had seen a slight downward trend in recidivism rates over the previous decade. After 2017, rates did not change significantly

in connection to defelonization. He said there was a somewhat sharper decline in recidivism rates post BM 110. One reason was that possession was a common recidivating offense, and removing those cases from the cohorts removed a risky population. The Commission's statistical analysis suggested an expected decline much larger than what occurred in reality. Projections indicated a difference of five to seven percentage points, but in practice, the drop was only about one percentage point.

[2:18:54 PM](#)

SENATOR MYERS explained that in Alaska, if a ballot measure is introduced and the legislature passes a substantially similar provision, the measure does not appear on the ballot. He asked whether Oregon follows the same process.

MR. SANCHAGRIN replied yes, Oregon operates in a similar way. He said the legislature can either refer the ballot measure itself or preempt it through legislation. He said that BM 110 caught many people by surprise when it was filed, so the legislature did not have an opportunity to act on it beforehand, partly due to the legislative schedule.

[2:19:48 PM](#)

SENATOR MYERS said it appears the ballot measures might have been stronger than the bill that ultimately passed. He asked whether Oregonians are content with the current approach, or whether there is a likelihood that a ballot measure will return to reinstate pre-2020 levels.

MR. SANCHAGRIN replied that BM 110 caught many by surprise, leaving little time for the legislature to intervene. He recalled that public safety colleagues were shocked by its passage. He explained that, more recently, there were two repeal ballot measures in circulation, one for full repeal and one for partial repeal. The backers of those measures agreed to withdraw them if the legislature acted in a way that they found to be satisfactory. Because the timing aligned with the short session, negotiations allowed the legislative process to preempt the ballot effort.

MR. SANCHAGRIN said public perception was mixed. People were happy that action was taken, but many are waiting to see results on the streets. He noted that following the implementation of HB 4002 on September 1, arrests for possession spiked immediately, exceeding pre-COVID levels for the entire month. He attributed a lot of those efforts to locals who intervened in a space that they had been shut out of over the prior four years.

2:22:30 PM

SENATOR MYERS said HB 4002 created two off-ramps to divert individuals from the criminal justice path: deflection and conditional discharge. He asked how many individuals participated in and completed either of those programs compared to the number who proceeded through the regular criminal justice process.

MR. SANCHAGRIN replied that it is still early to draw conclusions. He said the Oregon Criminal Justice Commission estimated before the bill passed that about 2,000 individuals would enter deflection in the first year. Current participation is about 80 percent of that projection, which he described as reasonable given the phased rollout of programs. He reported that roughly 60 people have completed deflection successfully to date, meaning they met the program requirements, though it is not yet clear how successful they will be in the long term.

MR. SANCHAGRIN said the number of individuals who are going through the justice system are higher than the number in deflection programs. He explained that many of the deflection programs launched around Christmas 2024, creating a gap between recriminalization and the availability of deflection. He said the Commission continues to work on this and other complexities and is waiting to see clear outcomes.

2:24:48 PM

SENATOR KIEHL asked for background information on how monitoring and follow-up occur under the new deflection program. He wondered whether individuals were supervised after referral or were simply dropped off, and whether the process resembles case management or pretrial supervision.

MR. SANCHAGRIN replied that deflection programs vary substantially across Oregon. The legislature intentionally allowed counties to experiment at the grassroots level, with the aim of adopting more standardized practices later. He noted that the Commission must deliver a best practices report by April 1 and write standards for deflection by year's end.

MR. SANCHAGRIN said Oregonians say, "If you've seen one Oregon county, you've seen one Oregon county," and that is true for county deflection programs as well. He explained that most deflection programs do not employ a traditional criminal justice-style approach to supervision, although case management is an important component of the process. He expressed his

belief that some counties struggle a bit more with the referral process due to delayed community court dates, which can sometimes occur weeks after the citation. Expecting individuals who are in the throes of addiction to appear for their court date three weeks later poses challenges for them. Counties that connect individuals immediately with a case manager and services show the most success; therefore, this is a component of some programs, but not all.

[2:27:15 PM](#)

SENATOR TOBIN referred to slide 16, noticing that 28 counties participated in deflection programs. She asked whether participation in deflection programs was voluntary and if there is hope or intent to have all counties participate once best practices are released.

MR. SANCHAGRIN affirmed that the deflection program is voluntary and there are hopes that all counties will eventually participate. He explained that the gray-colored counties on slide 16 are generally large in area but small in population. The funding formula for the initial rollout was based on factors such as Medicaid population, overdose data, prior PCS arrest data, and housing and homelessness issues. He said 17 counties would have received extremely low amounts of money, in some cases only tens of thousands of dollars. Because a program cannot be started with such low funding, the statute guaranteed a minimum funding level of \$150,000. Many counties reported that \$150,000 was also insufficient to set up a deflection program. He said the Commission had to be very aggressive in how it rolled out the funding for these programs. He explained that one critique of the BM 110 process was that the funding rollout for the BHRNs was slow, it took 17 months to get the first check issued and out the door. In contrast, the Commission was able to get its checks out in six months, which was fast.

MR. SANCHAGRIN said some of the smaller counties lacked grant writing staff or workers to put together applications. The combination of lower funding amounts and the amount of work needed to get the initial program started was a barrier for some counties. Other counties deliberately chose to wait and observe the first round before deciding whether to participate. He expressed hope that, with a fuller and less rushed grant process in the future, more counties will join. He emphasized that the absence of programs in some counties should not be seen as a lack of will.

[2:29:58 PM](#)

SENATOR TOBIN asked what age group the system applies to, stating her assumption that it does not cover juveniles and applies only to individuals 18 or older.

MR. SANCHAGRIN confirmed that the system applies to adults. He stated that a critique of both HB 4002 and BM 110 is that they largely ignored the challenges associated with juvenile substance use.

2:30:30 PM

CHAIR CLAMAN referred to slide 6, specifically the defelonization approach prior to BM 110. He sought clarification on whether much of the conduct previously prosecuted as a felony shifted to the misdemeanor level, without reducing the overall number of prosecutions. He further asked if the real drop in prosecutions occurred only after full decriminalization under the Class E violation.

MR. SANCHAGRIN replied that is very close. He said case volume decreased by about 18 to 20 percent following defelonization, though this was modest compared to the much larger reductions that occurred after passage of BM 110.

2:31:35 PM

CHAIR CLAMAN asked whether, in the period before BM 110, there were observable differences in treatment compliance among the new misdemeanor class of offenders.

MR. SANCHAGRIN replied not necessarily, clarifying that this refers mostly to treatment connected to the criminal justice system, such as programs through probation offices. He said there was concern during both defelonization and the passage of BM 110 that drug courts, which serve about 2,500 individuals per year, would decline. However, neither reform approach substantially impacted drug court enrollment. He explained that Oregon's drug courts are risk-driven rather than charge-driven, requiring high risk and high need to qualify. For defelonization, individuals with small drug possessions and no prior record typically did not qualify as high risk.

MR. SANCHAGRIN stated that even through the BM 110 process, local courts saw some variation, but the overall drug court population remained steady. He emphasized that this does not mean treatment needs were being met. Individuals on supervision often struggle to access treatment slots, a challenge also reported by parole and probation departments. He reiterated that

the first defelonization step in 2017 did not lead to any detectable reduction in drug court participation.

[2:33:17 PM](#)

CHAIR CLAMAN inquired about, what he describes as, 23-hour crisis centers that are in many Oregon counties and are part of the deflection path. He asked how long these crisis intervention centers have been in place and how prevalent they are.

MR. SANCHAGRIN replied that such centers are still relatively rare, though more are being built. He said most counties aspire to have them, with deflection dollars helping to support that effort. He mentioned Deschutes County was the first to establish a fully operational 24-hour center using both Commission grants and federal funding and is leading in this area. He said these centers have only been in place since the late 2010s.

MR. SANCHAGRIN said that other counties, such as Multnomah (home to Portland) and Marion (home to Salem), are working to establish similar facilities but face challenges with siting and implementation in urban areas. He said while there is strong interest, it remains relatively rare for counties to have operational crisis centers.

[2:34:19 PM](#)

CHAIR CLAMAN asked what cities are well-known in Deschutes County.

MR. SANCHAGRIN replied that everybody loves Bend.

[2:34:33 PM](#)

CHAIR GRAY referred to slide 17, noting that the Grant County program includes the Mobile Crisis Team in its response efforts. He said that in Alaska, if a Mobile Crisis Team is used, law enforcement would not be. Slide 17 states, "Any citations will be held in abeyance if the individual is eligible for and agrees to enter deflection." He remarked that in Alaska, issuing citation is not a function of Mobile Crisis Teams, and he asked how Oregon's Mobile Crisis Teams participate in this program if they are not law enforcement.

MR. SANCHAGRIN replied that, as is the case with Grant County, law enforcement would still make the referral, often alongside a Mobile Crisis Team call. He explained that when law enforcement encounters an individual, the Mobile Crisis Team may also respond. He said Grant County is a small-population, large-area county on Oregon's eastern side. In many of these eastern

counties, agencies are finding that Mobile Crisis Teams and law enforcement typically engage with different populations. Usually, these two groups do not work together, not because they have a problem working together, but because they encounter very different populations. He said in some of our smaller counties, officials are beginning to realize that law enforcement may not be the chief source of referrals into deflection programs. Instead, Mobile Crisis Teams or other community-based services may become the main entry point for individuals.

2:36:03 PM

CHAIR CLAMAN said Alaska is on a similar timeline for crisis centers. He recalled that the legislature passed its first legislation on the issue in 2020 and supplemental legislation in 2022. He stated that Alaska would like to see more crisis centers, but there are still relatively few in operation.

2:37:09 PM

There being no further business to come before the committees, Chair Claman adjourned the Senate Judiciary Standing Committee and House Judiciary Standing Committee meeting at 2:37 p.m.