

FIX & IMPROVE M110 INITIATIVE

Version B

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**LIVES ARE BEING LOST. STREETS ARE UNSAFE.
IT'S TIME TO FIX AND IMPROVE MEASURE 110.**

Measure 110 was approved by Oregon voters in 2020. The measure promised to improve Oregon's drug use and addiction crisis by dedicating cannabis taxes to fund and deliver expanded treatment and recovery services. It also decriminalized the use of certain hard drugs like fentanyl, heroin, and methamphetamine. Since then, addiction and overdoses skyrocketed, open-air drug use is out of control, and drug-related crimes are rising. It's clear, Measure 110 is not working as promised.

Our goal is to fulfill the promise of Measure 110 – more treatment, more quickly to more people. But with Oregon's juvenile overdose death rate leading the nation, human suffering getting worse, and communities increasingly unsafe, Measure 110 must be fixed to help those most at risk and in need. There are two ways change can happen – voters can fix Measure 110 through a ballot initiative on the November 2024 ballot, or the Governor and legislature can act with greater urgency and pass the initiative language when they meet in February – or sooner in special session.

INITIATIVE HIGHLIGHTS:

1. Prohibit the use of hard drugs in public places.
2. Make possession of lethal drugs like fentanyl, meth, and heroin a crime again.
3. Replace voluntary treatment with required addiction treatment.
4. Prioritize diversion, treatment, and recovery over prosecution and jail.
5. Maintain cannabis taxes for expanded prevention, treatment, and recovery; improve oversight and accountability.
6. Expand penalties for drug dealing.

INITIATIVE DETAILS:

- Creates new crime of using unlawful drugs in public as an A Misdemeanor.
- Allows local jurisdictions to adopt and enforce laws prohibiting using illegal drugs.
- Returns unlawful possession of drugs to an A Misdemeanor as it was prior to 2020.
- Provides multiple pathways for diversion of unlawful possession of drugs.
- Provides for automatic expunction of misdemeanor drug possession conviction upon successful completion of treatment or probation.
- Adds misdemeanor theft cases to those funded for supervised probation, thus providing funding for treatment and accountability for more users.
- Transfers authority over Measure 110 funding to the Alcohol and Drug Policy Commission (ADPC) and directs the Commission to issue grants to counties, cities, school districts, tribes, and behavioral health recovery networks:
 - ✓ Requires grant applications be approved by the local alcohol and drug policy commission.
 - ✓ Requires grants support prevention, treatment, recovery support, individual harm reduction, and community harm reduction services that are proven to reduce addiction and addiction-related crime.
 - ✓ Prioritizes grants for expanding detox facilities, sobering centers, and treatment facilities and services statewide.
 - ✓ Prioritizes optional community harm reduction programs, such as community courts, diverting persons to detox and treatment, and shutting down open air drug dealing.
- Enhances penalties for drug dealing:
 - ✓ Creates new crime of possession of a tableting or encapsulating machine as a C Felony.
 - ✓ Requires sentence of 36 months for repeat drug dealing convictions with 5 years.
 - ✓ Requires sentence of 58 to 130 months for drug dealing resulting in death, with lesser sentence required or allowed under certain circumstances ("Taylor's Law" from [2023 HB 2906](#)).
 - ✓ Provides that attempted dealing includes possession with intent to deal ("[Boyd fix](#)" from [2022 HB 4135](#)).

FIX & IMPROVE M110: A & B VERSIONS COMPARED

Note: While two initiatives are being filed only one will proceed to signature gathering after the ballot title process is completed.

	MEASURE A	MEASURE B
Creates crime of use of controlled substance in public	✓	✓
Mandates drug treatment for drug-dependent persons convicted of or charged with drug possession or certain misdemeanor property crimes (such as shoplifting or car break-ins)	✓	✓
Recriminalizes possession of fentanyl, methamphetamine, heroin, cocaine, and other hard drugs	✓	✓
Creates conditional discharge diversion procedure for those charged with drug possession	✓	✓
Automatically expunges misdemeanor drug possession conviction upon completion of drug treatment and probation	✓	
Increases penalties for manufacture/delivery of controlled substances for repeat offenders or if delivery causes death	✓	
Creates crime of possession of tableting or encapsulating machines	✓	
Defines “delivery” of controlled substance to include possession with intent to transfer to another	✓	
Transfers Measure 110 grant program to Alcohol and Drug Policy Commission (ADPC)	✓	
Requires ADPC to fund evidence-informed prevention, treatment, recovery support, community harm reduction, enforcement services	✓	

PROPOSED BALLOT TITLE FOR FIX & IMPROVE M110 – VERSION B

Note: While two initiatives are being filed, only one will proceed to signature gathering after the ballot title process is completed.

Caption: Prohibits public use of controlled substances; recriminalizes certain drug possession offenses, mandates treatment for users. (15)

Result of “Yes” Vote: “Yes” vote recriminalizes possession of controlled substances, mandates treatment for offenders and those on diversion for drug possession; prohibits use of controlled substances in public. (25)

Result of “No” Vote: “No” vote retains current classifications for drug possession as violations, not crimes; retains current framework for voluntary drug treatment. (19)

Summary: Creates new crime of using controlled substances in public places, punishable as a Class A misdemeanor; excludes cannabis. Increases classification of offenses involving possession of controlled substances (including fentanyl, methamphetamine, heroin, cocaine, and other substances) from a violation to a Class A misdemeanor, makes available diversion for those charged. Mandates treatment for drug-dependent persons on probation for, or seeking diversion for, drug possession or certain property-related misdemeanors, as a condition of probation or diversion. (74)

FIX & IMPROVE MEASURE 110 VERSION B

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

2
3 **USE OF CONTROLLED SUBSTANCE IN A PUBLIC PLACE**

4 **SECTION 1. Section 2 of this 2024 Act is added to and made a part of ORS 475.752 to**
5 **475.980.**

6 **SECTION 2. (1) It is unlawful for any person knowingly or intentionally to use a controlled**
7 **substance in a public place unless the substance was obtained directly from, or pursuant to a valid**
8 **prescription or order of, a practitioner while acting in the course of professional practice, or except**
9 **as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who**
10 **violates this section is guilty of a Class A misdemeanor.**

11 **(2) As used in this section, “public place” means a place to which the general public has**
12 **access and includes, but is not limited to, highways, streets, schools, places of amusement, parks,**
13 **playgrounds, premises and vehicles used in connection with public passenger transportation, and**
14 **hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or**
15 **apartments designed for actual residence.**

16
17 **MANDATORY DRUG TREATMENT**

18 **SECTION 3. (1) For a person convicted of or charged with a designated drug-related**
19 **misdemeanor or a designated property misdemeanor as defined in ORS 423.478 as amended by**
20 **Section 11 of this 2024 Act, the following shall be included as conditions of probation or as part of a**
21 **conditional discharge diversion agreement under Section 12 of this 2024 Act:**

22 **(a) a requirement that the person be evaluated to determine whether the person is a drug-**
23 **dependent person, and that the person provide written consent for such evaluation; and**

24 **(b) a requirement that, if the evaluation indicates that the person is a drug-dependent**
25 **person and that such person may benefit from treatment for drug dependence, the person must**
26 **complete the course of treatment as directed by the evaluator.**

27 **(2) As to any evaluation and treatment required under subsection (1) of this section:**

28 **(a) The state shall fund the costs of such evaluation and treatment, including supervision**
29 **related to the person’s compliance with evaluation and treatment requirements.**

30 **(b) The court may assess against the person a fee for the costs described in subsection (2)(a)**
31 **of this section, based on the person’s ability to pay.**

1
2 **RECRIMINALIZING DRUG POSESSION**

3 **SECTION 4.** ORS 475.752 is amended to read:

4 475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is
5 unlawful for any person to manufacture or deliver a controlled substance. Any person who violates this
6 subsection with respect to:

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

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

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

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

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

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

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

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

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

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

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

23 (3) It is unlawful for any person knowingly or intentionally to possess a controlled substance
24 unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a
25 practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS
26 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with respect to:

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

29 (b) A controlled substance in Schedule II, is guilty of a Class [*E violation*] **A misdemeanor**,
30 except as otherwise provided in ORS 475.814, 475.824, 475.834 or 475.884 or subsection (8) of this
31 section.

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

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

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

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

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

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

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

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

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

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

15 (7) Notwithstanding subsection (3)(a) of this section[:],

16 [(a) *Unlawful possession of a controlled substance in Schedule I is a Class A misdemeanor if the*
17 *person possesses:*

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

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

22 [(b)] Unlawful possession of a controlled substance in Schedule I is a Class B felony if:

23 [(A)] (a) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

24 [(B)] (b) The person possesses a substantial quantity under ORS 475.900 (2)(b).

25 (8) Notwithstanding subsection (3)(b) of this section[:],

26 [(a) *Unlawful possession of a controlled substance in Schedule II is a Class A misdemeanor if the*
27 *person possesses one gram or more or five or more user units of a mixture or substance containing a*
28 *detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the State*
29 *Board of Pharmacy.]*

30 [(b)] Unlawful possession of a controlled substance in Schedule II is a Class C felony if:

31 [(A)] (a) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

32 [(B)] (b) The person possesses a substantial quantity under ORS 475.900 (2)(b).

33 **SECTION 5.** ORS 475.824 is amended to read:

1 475.824. (1) It is unlawful for any person knowingly or intentionally to possess methadone unless
2 the methadone was obtained directly from, or pursuant to a valid prescription or order of, a practitioner
3 while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to
4 475.285 and 475.752 to 475.980.

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

6 (b) Notwithstanding paragraph (a) of this subsection, [*unlawful possession of methadone is a*
7 *Class A misdemeanor if the person possesses 40 or more user units of a mixture or substance containing*
8 *a detectable amount of methadone.*]

9 [(c) *Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful possession of
10 methadone is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

11 **SECTION 6.** ORS 475.834 is amended to read:

12 475.834. (1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless
13 the oxycodone was obtained directly from, or pursuant to a valid prescription or order of, a practitioner
14 while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to
15 475.285 and 475.752 to 475.980.

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

17 (b) Notwithstanding paragraph (a) of this subsection, [*unlawful possession of oxycodone is a*
18 *Class A misdemeanor if the person possesses 40 or more pills, tablets, capsules or user units of a mixture*
19 *or substance containing a detectable amount of oxycodone.*]

20 [(c) *Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful possession of
21 oxycodone is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

22 **SECTION 7.** ORS 475.854 is amended to read:

23 475.854. (1) It is unlawful for any person knowingly or intentionally to possess heroin.

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

25 (b) Notwithstanding paragraph (a) of this subsection, [*unlawful possession of heroin is a Class A*
26 *misdemeanor if the person possesses one gram or more of a mixture or substance containing a detectable*
27 *amount of heroin.*]

28 [(c) *Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful possession of heroin is
29 a Class B felony if:

30 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

31 (B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

32 **SECTION 8.** ORS 475.874 is amended to read:

33 475.874. (1) It is unlawful for any person knowingly or intentionally to possess 3,4-
34 methylenedioxyamphetamine.

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

3 (b) Notwithstanding paragraph (a) of this subsection, [*unlawful possession of 3,4-*
4 *methylenedioxymethamphetamine is a Class A misdemeanor if the person possesses one gram or more or*
5 *five or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:*]

6 [(A) 3,4-methylenedioxyamphetamine;]

7 [(B) 3,4-methylenedioxymethamphetamine; or]

8 [(C) 3,4-methylenedioxy-N-ethylamphetamine.]

9 [(c) Notwithstanding paragraphs (a) and (b) of this subsection,] unlawful possession of 3,4-
10 methylenedioxymethamphetamine is a Class B felony if:

11 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

12 (B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

13 **SECTION 9.** ORS 475.884 is amended to read:

14 475.884. (1) It is unlawful for any person knowingly or intentionally to possess cocaine unless the
15 substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while
16 acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to
17 475.285 and 475.752 to 475.980.

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

19 (b) Notwithstanding paragraph (a) of this subsection, [*unlawful possession of cocaine is a Class A*
20 *misdemeanor if the person possesses two grams or more of a mixture or substance containing a*
21 *detectable amount of cocaine.*]

22 [(c) Notwithstanding paragraphs (a) and (b) of this subsection,] unlawful possession of cocaine is
23 a Class C felony if:

24 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

25 (B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

26 **SECTION 10.** ORS 475.894 is amended to read:

27 475.894. (1) It is unlawful for any person knowingly or intentionally to possess
28 methamphetamine unless the substance was obtained directly from, or pursuant to, a valid prescription or
29 order of a practitioner while acting in the course of professional practice, or except as otherwise
30 authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

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

32 (b) Notwithstanding paragraph (a) of this subsection, [*unlawful possession of methamphetamine*
33 *is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance*
34 *containing a detectable amount of methamphetamine.*]

1 [(c) *Notwithstanding paragraphs (a) and (b) of this subsection,*] unlawful possession of
2 methamphetamine is a Class C felony if:

3 (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

4 (B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

5
6 **DESIGNATED DRUG-RELATED AND PROPERTY MISDEMEANORS**

7 **SECTION 11.** ORS 423.478 is amended to read:

8 423.478. (1) The Department of Corrections shall:

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

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

11 (A) Allow tracking of offenders; and

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

14 (c) Provide interstate compact administration and jail inspections.

15 (2) Subject to ORS 423.483, each county, in partnership with the department, shall assume
16 responsibility for community-based supervision, sanctions and services for offenders convicted of
17 felonies, designated drug-related misdemeanors, [or] designated person misdemeanors, **or designated**
18 **property misdemeanors** who are:

19 (a) On parole;

20 (b) On probation;

21 (c) On post-prison supervision;

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

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

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

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

34 (a) When the person is released;

- 1 (b) Within 10 days of a change of residence;
2 (c) Once each year within 10 days of the person’s birth date;
3 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an
4 institution of higher education; and
5 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher
6 education.

7 (4) As used in this section:

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

10 (b) “Designated drug-related misdemeanor” means:

11 (A) Unlawful possession of fentanyl under ORS 475.752(8)(a);

12 (B) Unlawful possession of methadone under ORS 475.824 (2)[(b)](a);

13 (C) Unlawful possession of oxycodone under ORS 475.834 (2)[(b)](a);

14 (D) Unlawful possession of heroin under ORS 475.854 (2)[(b)](a);

15 (E) Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874
16 (2)[(b)](a);

17 (F) Unlawful possession of cocaine under ORS 475.884 (2)[(b)](a); or

18 (G) Unlawful possession of methamphetamine under ORS 475.894 (2)[(b)](a).

19 (c) “Designated person misdemeanor” means:

20 (A) Assault in the fourth degree constituting domestic violence if the judgment document is as
21 described in ORS 163.160 (4);

22 (B) Menacing constituting domestic violence if the judgment document is as described in ORS
23 163.190 (3); or

24 (C) Sexual abuse in the third degree under ORS 163.415.

25 **(d) “Designated property misdemeanor” means:**

26 **(A) Theft in the third degree under ORS 164.043;**

27 **(B) Theft in the second degree under ORS 164.045;**

28 **(C) Criminal trespass in the second degree under ORS 164.245;**

29 **(D) Criminal trespass in the first degree under ORS 164.255;**

30 **(E) Unlawful entry into a motor vehicle under ORS 164.272;**

31 **(F) Criminal mischief in the second degree under ORS 164.354;**

32 **(G) Any attempt to commit:**

33 **(i) Theft in the first degree under ORS 164.055;**

34 **(ii) Unauthorized use of a vehicle under ORS 164.135;**

- 1 (iii) Criminal mischief in the first degree under ORS 164.365; or
- 2 (iv) Identity theft under ORS 165.800;
- 3 (H) Use of a controlled substance in a public place under Section 2 of this 2024 Act; or
- 4 (I) Any other crime the court designates at the time of sentencing as a designated property
- 5 misdemeanor.

6

7 **CONDITIONAL DISCHARGE DIVERSION**

8 **SECTION 12. (1) Subject to subsection (5) of this section, the district attorney shall offer**

9 **any person charged with a designated drug related misdemeanor as defined in ORS 423.478 as**

10 **amended by Section 11 of this 2024 Act the opportunity to enter into a conditional discharge**

11 **diversion agreement. If the defendant enters into the agreement within 30 days after arraignment,**

12 **or at a later date with consent of the district attorney, the court shall defer further proceedings and**

13 **place the person on probation. The terms of the probation shall be defined by a probation**

14 **agreement.**

15 (b) A probation agreement carries the understanding that if the defendant fulfills the terms

16 of the agreement, the criminal charges filed against the defendant will be dismissed with prejudice.

17 (c) The agreement must contain a waiver of the following rights of the defendant with

18 respect to each criminal charge:

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

20 (B) The right to present evidence on the defendant's behalf;

21 (C) The right to confront and cross-examine witnesses against the defendant;

22 (D) The right to contest evidence presented against the defendant, including the right to

23 object to hearsay evidence; and

24 (E) The right to appeal from a judgment of conviction resulting from an adjudication of

25 guilt entered under subsection (2) of this section, unless the appeal is based on an allegation that the

26 sentence exceeds the maximum allowed by law or constitutes cruel and unusual punishment.

27 (d) The agreement must include a requirement that the defendant pay any restitution owed

28 to the victim as determined by the court, and any fees for court-appointed counsel ordered by the

29 court under ORS 135.050.

30 (e) The agreement may not contain a requirement that the defendant enter a plea of guilty

31 or no contest on any charge in the accusatory instrument.

32 (f) Entering into a probation agreement does not constitute an admission of guilt and is not

33 sufficient to warrant a finding or adjudication of guilt by a court.

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

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

10 **(3) Upon a determination by the court that the terms and conditions of the probation**
11 **agreement have been met, with input from the district attorney and the probation department, the**
12 **court shall discharge the person and dismiss the proceedings against the person. Discharge and**
13 **dismissal under this section shall be without adjudication of guilt and is not a conviction for**
14 **purposes of this section or for purposes of disqualifications or disabilities imposed by law upon**
15 **conviction of a crime.**

16 **(4) In the event that the period of probation under this section expires, but the terms and**
17 **conditions of the probation agreement have not been fulfilled and no probation violation**
18 **proceeding was initiated prior to the expiration of the period of probation, the court may not**
19 **discharge the person and dismiss the proceedings against the person. The court shall instead issue**
20 **an order requiring the person to appear and to show cause why the court should not enter an**
21 **adjudication of guilt as described in subsection (2) of this section due to the failure of the person to**
22 **fulfill the terms and conditions of the probation agreement prior to expiration of the period of**
23 **probation. At the hearing on the order to show cause, after considering any evidence or argument**
24 **from the district attorney and the person, the court may:**

25 **(a) Order a new period of probation to allow the person to fulfill the terms and conditions of**
26 **the probation agreement; or**

27 **(b) Enter an adjudication of guilt as described in subsection (2) of this section.**

28 **(5) A defendant is eligible for a conditional discharge diversion agreement as described in**
29 **this section if the defendant meets all of the following conditions:**

30 **(a) On the date the defendant filed the petition for a conditional discharge diversion**
31 **agreement, the defendant had no charge, other than the charge for the present offense, pending.**

32 **(b) The defendant has not been convicted of manufacture or delivery of a controlled**
33 **substance in violation of ORS chapter 475, or the statutory counterpart in another jurisdiction,**
34 **within the previous 5 years.**

1 (c) The defendant was not participating in a drug or driving while under the influence of
2 intoxicants diversion program or in any similar alcohol or drug diversion program in this state or
3 in another jurisdiction within the previous 1 year.

4 (d) The defendant does not have a criminal history score of B or higher.

5 (e) The defendant has not participated in a previous conditional discharge diversion
6 agreement or conditional postponement for a designated drug misdemeanor, or probation for a
7 designated drug misdemeanor in the previous 5 years.

8
9 **EXCLUSION FOR CANNABIS**

10 **SECTION 13.** As used in this 2024 Act, “controlled substance” has the meaning given that
11 term in ORS 475.005, and does not include any compound, manufacture, salt, derivative, mixture or
12 preparation of a plant, part of a plant, resin or seed of the plant Cannabis family Cannabaceae.

13
14 **OPERATIVE DATES**

15 **SECTION 14.** (1) This 2024 Act becomes operative on January 1, 2025.

16 (2) The amendments to ORS 475.752, 475.824, 475.834, 475.854, 475.874, 475.884, 475.894,
17 and 423.478 by this 2024 Act apply to conduct occurring on and after January 1, 2025.