

LC 420  
2017 Regular Session  
13700-001  
12/8/16 (JLM/ps)

# D R A F T

## SUMMARY

Directs Oregon Criminal Justice Commission to develop method for recording data concerning officer-initiated pedestrian and traffic stops. Directs Department of Public Safety Standards and Training to develop training and procedures for recording data.

Requires law enforcement agencies to begin recording required officer-involved pedestrian and traffic stop data beginning on date based on size of agency. Requires agencies to provide recorded data to commission beginning on date based on size of agency. Requires that data not individually identify law enforcement officers or persons who were subject of traffic stops.

Requires Oregon Criminal Justice Commission to review, using statistical analysis, officer-initiated pedestrian and traffic stop data received from law enforcement agencies, and report no later than July 1, 2020, and annually thereafter, to Department of Public Safety Standards and Training, Governor and committees or interim committees of Legislative Assembly related to judiciary. Directs department to review report received from commission. Authorizes department to provide advice and technical assistance to law enforcement agency named in report. Directs department to report assistance to local public safety coordinating council in public meeting.

Directs Superintendent of State Police to enter into, if possible, agreement or contract with Federal Bureau of Investigation to allow data pertaining to individuals of Hispanic or Middle Eastern ethnicity to be entered into Law Enforcement Data System.

Reduces crime classification of unlawful possession of controlled substance in Schedule I. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both, except in specified circumstances. Retains current crime classification if possession is commercial drug offense or if person possesses substantial quantity of controlled substance.

Reduces crime classification of unlawful possession of controlled substance in Schedule II. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both, except in specified circumstances. Retains current crime classification if possession is commercial drug offense or if person possesses

1 substantial quantity of controlled substance.

2 Requires county to supervise offenders convicted of certain drug-related  
3 misdemeanors.

4 Declares emergency, effective on passage.

5 **A BILL FOR AN ACT**

6 Relating to public safety; creating new provisions; amending ORS 131.915,  
7 131.920, 161.570, 181A.410, 423.478, 475.752, 475.824, 475.834, 475.854,  
8 475.874, 475.884 and 475.894; and declaring an emergency.

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

10 **SECTION 1. As used in sections 1 to 5 of this 2017 Act:**

11 (1) **“Law enforcement agency” means an agency employing law  
12 enforcement officers to enforce criminal laws.**

13 (2) **“Law enforcement officer” means a member of the Oregon State  
14 Police, a sheriff or a municipal police officer.**

15 (3) **“Officer-initiated pedestrian stop” means a detention of a pe-  
16 destrian by a law enforcement officer, not associated with a call for  
17 service, when the detention results in a citation, an arrest or a  
18 consensual search of the pedestrian’s body or property. The term does  
19 not apply to detentions for routine searches performed at the point  
20 of entry to or exit from a controlled area.**

21 (4) **“Officer-initiated traffic stop” means a detention of a driver of  
22 a motor vehicle by a law enforcement officer, not associated with a  
23 call for service, for the purpose of investigating a suspected violation  
24 of the Oregon Vehicle Code.**

25 (5) **“Profiling” means the targeting of an individual by a law  
26 enforcement agency or a law enforcement officer, on suspicion of the  
27 individual’s having violated a provision of law, based solely on the  
28 individual’s real or perceived age, race, ethnicity, color, national ori-  
29 gination, language, sex, gender identity, sexual orientation, political affil-  
30 iation, religion, homelessness or disability, unless the agency or officer  
31 is acting on a suspect description or information related to an identi-**

1 **fied or suspected violation of a provision of law.**

2 **(6) “Sexual orientation” has the meaning given that term in ORS**  
3 **174.100.**

4 **SECTION 2. (1) No later than July 1, 2018, the Oregon Criminal**  
5 **Justice Commission, in consultation with the Department of State**  
6 **Police and the Department of Justice, shall develop and implement a**  
7 **standardized method to be used by law enforcement officers to record**  
8 **officer-initiated pedestrian stop and officer-initiated traffic stop data.**  
9 **The standardized method must require, and any form developed and**  
10 **used pursuant to the standardized method must provide for, the fol-**  
11 **lowing data to be recorded for each stop:**

12 **(a) The date and time of the stop;**

13 **(b) The location of the stop;**

14 **(c) The race, ethnicity, age and sex of the pedestrian or the opera-**  
15 **tor of the motor vehicle stopped, based on the observations of the law**  
16 **enforcement officer responsible for reporting the stop;**

17 **(d) The nature of, and the statutory citation for, the alleged traffic**  
18 **violation, or other alleged violation, that caused the stop to be made;**  
19 **and**

20 **(e) The disposition of the stop, including whether a warning, cita-**  
21 **tion or summons was issued, whether a search was conducted, the**  
22 **type of search conducted, whether anything was found as a result of**  
23 **the search and whether an arrest was made.**

24 **(2) No later than July 1, 2018, the Department of Public Safety**  
25 **Standards and Training, in consultation with law enforcement agen-**  
26 **cies, shall develop and implement training and procedures to facilitate**  
27 **the collection of officer-initiated pedestrian and traffic stop data pur-**  
28 **suant to subsection (1) of this section.**

29 **(3) Beginning on the dates described in subsection (4) of this sec-**  
30 **tion, all law enforcement agencies that engage in officer-initiated pe-**  
31 **destrian or traffic stops shall record and retain the following data for**

1 **each stop:**

2 **(a) The date and time of the stop;**

3 **(b) The location of the stop;**

4 **(c) The race, ethnicity, age and sex of the pedestrian or the opera-**  
5 **tor of the motor vehicle stopped, based on the observations of the law**  
6 **enforcement officer responsible for reporting the stop;**

7 **(d) The nature of, and the statutory citation for, the alleged traffic**  
8 **violation, or other alleged violation, that caused the stop to be made;**  
9 **and**

10 **(e) The disposition of the stop, including whether a warning, cita-**  
11 **tion or summons was issued, whether a search was conducted, the**  
12 **type of search conducted, whether anything was found as a result of**  
13 **the search and whether an arrest was made.**

14 **(4) Each law enforcement agency shall begin recording the data**  
15 **described in subsection (3) of this section as follows:**

16 **(a) An agency that employs 100 or more law enforcement officers**  
17 **shall begin recording no later than July 1, 2018.**

18 **(b) An agency that employs between 25 and 99 law enforcement of-**  
19 **ficers shall begin recording no later than July 1, 2019.**

20 **(c) An agency that employs between one and 24 law enforcement**  
21 **officers shall begin recording no later than July 1, 2020.**

22 **(5) Each law enforcement agency that engages in officer-initiated**  
23 **traffic or pedestrian stops shall report to the Oregon Criminal Justice**  
24 **Commission the data recorded pursuant to subsection (3) of this sec-**  
25 **tion as follows:**

26 **(a) An agency that employs 100 or more law enforcement officers**  
27 **shall report no later than July 1, 2019, and at least annually thereafter.**

28 **(b) An agency that employs between 25 and 99 law enforcement of-**  
29 **ficers shall report no later than July 1, 2020, and at least annually**  
30 **thereafter.**

31 **(c) An agency that employs between one and 24 law enforcement**

1 **officers shall report no later than July 1, 2021, and at least annually**  
2 **thereafter.**

3 **(6) Data acquired under this section shall be used only for statis-**  
4 **tical purposes and not for any other purpose. The data may not con-**  
5 **tain information that reveals the identity of any stopped individual or**  
6 **the identity of any law enforcement officer. Data collected by law**  
7 **enforcement agencies or held by the Oregon Criminal Justice Com-**  
8 **mission under this section that may reveal the identity of any stopped**  
9 **individual or the identity of any law enforcement officer is exempt**  
10 **from public disclosure in any manner.**

11 **(7) The Department of Justice, the Department of Public Safety**  
12 **Standards and Training and the Department of State Police may adopt**  
13 **rules to carry out the provisions of sections 1 to 5 of this 2017 Act.**

14 **SECTION 3. (1) The Oregon Criminal Justice Commission shall re-**  
15 **view all data, including the prevalence and disposition of officer-**  
16 **initiated pedestrian and traffic stops, reported by law enforcement**  
17 **agencies pursuant to section 2 of this 2017 Act in order to identify**  
18 **patterns or practices of profiling.**

19 **(2) The commission shall select one or more statistical analysis**  
20 **methodologies, determined to be consistent with current best prac-**  
21 **tices, with which to review the data as described in subsection (1) of**  
22 **this section.**

23 **(3) No later than July 1, 2020, and annually thereafter, the com-**  
24 **mission shall report the results of the review to the Governor, the**  
25 **Department of Public Safety Standards and Training and, in the**  
26 **manner provided in ORS 192.245, to the committees or interim com-**  
27 **mittees of the Legislative Assembly related to the judiciary.**

28 **SECTION 4. (1) The Department of Public Safety Standards and**  
29 **Training shall receive and review reports provided to the department**  
30 **by the Oregon Criminal Justice Commission pursuant to section 3 of**  
31 **this 2017 Act.**

1       **(2) Upon receipt of a report described in subsection (1) of this sec-**  
2 **tion, the department may provide advice or technical assistance to any**  
3 **law enforcement agency mentioned within the report. Any advice or**  
4 **technical assistance provided shall be based on best practices in po-**  
5 **licing as determined by the Oregon Center for Policing Excellence es-**  
6 **tablished in ORS 181A.660.**

7       **(3) Upon providing advice or technical assistance under this section,**  
8 **the department shall, within a reasonable amount of time, present a**  
9 **summary of the advice and assistance given to the local public safety**  
10 **coordinating council in the county in which the assisted law enforce-**  
11 **ment agency is located. If the assisted law enforcement agency is the**  
12 **Oregon State Police, the presentation shall occur in Marion County.**  
13 **The presentation shall be open to the public, feature live testimony**  
14 **by presenters and be held in accordance with ORS 192.610 to 192.690.**

15       **SECTION 5. The Superintendent of State Police is authorized to,**  
16 **and shall, if possible, enter into an agreement or contract with the**  
17 **National Crime Information Center of the Federal Bureau of Investi-**  
18 **gation in order to modify the Law Enforcement Data System to allow**  
19 **for the entry of data pertaining to individuals of Hispanic and Middle**  
20 **Eastern ethnicity.**

21       **SECTION 6. ORS 131.915 is amended to read:**

22       131.915. As used in ORS 131.915 to 131.925:

23       (1) “Law enforcement agency” means:

24       (a) The Department of State Police;

25       (b) The Department of Justice;

26       (c) A district attorney’s office; and

27       (d) Any of the following that maintains a law enforcement unit as defined  
28 in ORS 181A.355:

29       (A) A political subdivision or an instrumentality of the State of Oregon.

30       (B) A municipal corporation of the State of Oregon.

31       (C) A tribal government.

1 (D) A university.

2 (2) “Law enforcement officer” means:

3 (a) A member of the Oregon State Police;

4 (b) A sheriff, constable, marshal, municipal police officer or reserve offi-  
5 cer or a police officer commissioned by a university under ORS 352.121 or  
6 353.125;

7 (c) An investigator of a district attorney’s office if the investigator is or  
8 has been certified as a law enforcement officer in this or any other state;

9 (d) An investigator of the Criminal Justice Division of the Department  
10 of Justice;

11 (e) A humane special agent as defined in ORS 181A.345;

12 (f) A judicial marshal of the Security and Emergency Preparedness Office  
13 of the Judicial Department who is appointed under ORS 1.177 and trained  
14 pursuant to ORS 181A.540;

15 (g) A liquor enforcement inspector exercising authority described in ORS  
16 471.775 (2); or

17 (h) An authorized tribal police officer as defined in ORS 181A.680.

18 (3) “Profiling” means [*that*] **the targeting of an individual by** a law  
19 enforcement agency or a law enforcement officer [*targets an individual for*],  
20 **on** suspicion of [*violating*] **the individual’s having violated** a provision of  
21 law, based solely on the **individual’s** real or perceived [*factor of the*  
22 *individual’s*] age, race, ethnicity, color, national origin, language, [*gender*]  
23 **sex**, gender identity, sexual orientation, political affiliation, religion,  
24 homelessness or disability, unless the agency or officer is acting on a suspect  
25 description or information related to an identified or suspected violation of  
26 a provision of law.

27 (4) “Sexual orientation” has the meaning given that term in ORS 174.100.

28 **SECTION 7.** ORS 131.920 is amended to read:

29 131.920. (1) All law enforcement agencies shall have written policies and  
30 procedures prohibiting profiling. The policies and procedures shall, at a  
31 minimum, include:

- 1 (a) A prohibition on profiling;
- 2 (b) Procedures allowing a complaint alleging profiling to be made to the  
3 agency:
- 4 (A) In person;
- 5 (B) In a writing signed by the complainant and delivered by hand, postal  
6 mail, facsimile or electronic mail; or
- 7 (C) By telephone, anonymously or through a third party;
- 8 (c) The provision of appropriate forms to use for submitting complaints  
9 alleging profiling;
- 10 (d) Procedures for submitting a copy of each profiling complaint to the  
11 Law Enforcement Contacts Policy and Data Review Committee and for re-  
12 ceiving profiling complaints forwarded from the committee; and
- 13 (e) Procedures for investigating all complaints alleging profiling.

14 (2) A law enforcement agency shall:

15 (a) Investigate all complaints alleging profiling that are received by the  
16 agency or forwarded from the committee.

17 (b) *[Establish a time frame within which a complaint alleging profiling*  
18 *may be made to the agency. The time frame may not be fewer than 90 days or*  
19 *more than 180 days after the alleged commission of profiling.]* **Accept for**  
20 **investigation a complaint alleging profiling that is made to the agency**  
21 **within 180 days of the alleged profiling incident.**

22 (c) **Respond to every complaint alleging profiling within a reason-**  
23 **able time after the conclusion of the investigation. The response must**  
24 **contain a statement of the final disposition of the complaint.**

25 **SECTION 8.** ORS 181A.410, as amended by section 42, chapter 117,  
26 Oregon Laws 2016, is amended to read:

27 181A.410. (1) In accordance with any applicable provision of ORS chapter  
28 183, to promote enforcement of law and fire services by improving the com-  
29 petence of public safety personnel and their support staffs, and in consulta-  
30 tion with the agencies for which the Board on Public Safety Standards and  
31 Training and Department of Public Safety Standards and Training provide



1 standards, certification, accreditation and training:

2 (a) The department shall recommend, and the board shall establish by  
3 rule, reasonable minimum standards of physical, emotional, intellectual and  
4 moral fitness for public safety personnel and instructors.

5 (b) The department shall recommend, and the board shall establish by  
6 rule, reasonable minimum training for all levels of professional development,  
7 basic through executive, including but not limited to courses or subjects for  
8 instruction and qualifications for public safety personnel and instructors.  
9 Training requirements shall be consistent with the funding available in the  
10 department's legislatively approved budget.

11 (c) The department, in consultation with the board, shall establish by rule  
12 a procedure or procedures to be used by law enforcement units, public or  
13 private safety agencies or the Oregon Youth Authority to determine whether  
14 public safety personnel meet minimum standards or have minimum training.

15 (d) Subject to such terms and conditions as the department may impose,  
16 the department shall certify instructors and public safety personnel, except  
17 youth correction officers, as being qualified under the rules established by  
18 the board.

19 (e) The department shall deny applications for training and deny, suspend  
20 and revoke certification in the manner provided in ORS 181A.630, 181A.640  
21 and 181A.650 (1).

22 (f) The department shall cause inspection of standards and training for  
23 instructors and public safety personnel, except youth correction officers, to  
24 be made.

25 (g) The department may recommend, and the board may establish by  
26 rule, accreditation standards, levels and categories for mandated and non-  
27 mandated public safety personnel training or educational programs. The de-  
28 partment and board, in consultation, may establish to what extent training  
29 or educational programs provided by an accredited university, college, com-  
30 munity college or public safety agency may serve as equivalent to mandated  
31 training or as a prerequisite to mandated training. Programs offered by ac-

1 credited universities, colleges or community colleges may be considered  
2 equivalent to mandated training only in academic areas.

3 **(h) The department shall recommend, and the board shall establish**  
4 **by rule, an educational program that the board determines will be**  
5 **most effective in reducing profiling, as defined in ORS 131.915, by po-**  
6 **lice officers and reserve officers. The program must be required at**  
7 **all levels of training, including basic training and advanced, leadership**  
8 **and continuing training.**

9 (2) The department may:

10 (a) Contract or otherwise cooperate with any person or agency of gov-  
11 ernment for the procurement of services or property;

12 (b) Accept gifts or grants of services or property;

13 (c) Establish fees for determining whether a training or educational pro-  
14 gram meets the accreditation standards established under subsection (1)(g)  
15 of this section;

16 (d) Maintain and furnish to law enforcement units and public and private  
17 safety agencies information on applicants for appointment as instructors or  
18 public safety personnel, except youth correction officers, in any part of the  
19 state; and

20 (e) Establish fees to allow recovery of the full costs incurred in providing  
21 services to private entities or in providing services as experts or expert  
22 witnesses.

23 (3) The department, in consultation with the board, may:

24 (a) Upon the request of a law enforcement unit or public safety agency,  
25 conduct surveys or aid cities and counties to conduct surveys through qual-  
26 ified public or private agencies and assist in the implementation of any rec-  
27 ommendations resulting from such surveys.

28 (b) Upon the request of law enforcement units or public safety agencies,  
29 conduct studies and make recommendations concerning means by which re-  
30 questing units can coordinate or combine their resources.

31 (c) Conduct and stimulate research to improve the police, fire service,

1 corrections, adult parole and probation, emergency medical dispatch and  
2 telecommunicator professions.

3 (d) Provide grants from funds appropriated or available therefor, to law  
4 enforcement units, public safety agencies, special districts, cities, counties  
5 and private entities to carry out the provisions of this subsection.

6 (e) Provide optional training programs for persons who operate lockups.  
7 The term "lockup" has the meaning given it in ORS 169.005.

8 (f) Provide optional training programs for public safety personnel and  
9 their support staffs.

10 (g) Enter into agreements with federal, state or other governmental  
11 agencies to provide training or other services in exchange for receiving  
12 training, fees or services of generally equivalent value.

13 (h) Upon the request of a law enforcement unit or public safety agency  
14 employing public safety personnel, except youth correction officers, grant an  
15 officer, fire service professional, telecommunicator or emergency medical  
16 dispatcher a multidiscipline certification consistent with the minimum re-  
17 quirements adopted or approved by the board. Multidiscipline certification  
18 authorizes an officer, fire service professional, telecommunicator or emer-  
19 gency medical dispatcher to work in any of the disciplines for which the of-  
20 ficer, fire service professional, telecommunicator or emergency medical  
21 dispatcher is certified. The provisions of ORS 181A.500, 181A.520 and  
22 181A.530 relating to lapse of certification do not apply to an officer or fire  
23 service professional certified under this paragraph as long as the officer or  
24 fire service professional maintains full-time employment in one of the certi-  
25 fied disciplines and meets the training standards established by the board.

26 (i) Establish fees and guidelines for the use of the facilities of the train-  
27 ing academy operated by the department and for nonmandated training pro-  
28 vided to federal, state or other governmental agencies, private entities or  
29 individuals.

30 (4) Pursuant to ORS chapter 183, the board, in consultation with the de-  
31 partment, shall adopt rules necessary to carry out the board's duties and

1 powers.

2 (5) Pursuant to ORS chapter 183, the department, in consultation with the  
3 board, shall adopt rules necessary to carry out the department's duties and  
4 powers.

5 (6) For efficiency, board and department rules may be adopted jointly as  
6 a single set of combined rules with the approval of the board and the de-  
7 partment.

8 (7) The department shall obtain approval of the board before submitting  
9 its legislative concepts, Emergency Board request or agency request budget  
10 to the Oregon Department of Administrative Services.

11 (8) The Department of Public Safety Standards and Training shall develop  
12 a training program for conducting investigations required under ORS  
13 181A.790.

14 **SECTION 9.** ORS 475.752, as amended by section 59, chapter 24, Oregon  
15 Laws 2016, is amended to read:

16 475.752. (1) Except for licensees and licensee representatives, as those  
17 terms are defined in ORS 475B.015, that are engaged in lawful activities, and  
18 except for a person acting within the scope of and in compliance with ORS  
19 475B.245, and except as authorized by ORS 475.005 to 475.285 and 475.752 to  
20 475.980, it is unlawful for any person to manufacture or deliver a controlled  
21 substance. Any person who violates this subsection with respect to:

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

24 (b) A controlled substance in Schedule II, is guilty of a Class B felony,  
25 except as otherwise provided in ORS 475.858, 475.860, 475.862, 475.878, 475.880,  
26 475.882, 475.904 and 475.906.

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

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

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

1 misdemeanor.

2 (2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980,  
3 it is unlawful for any person to create or deliver a counterfeit substance.

4 Any person who violates this subsection with respect to:

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

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

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

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

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

12 (3) It is unlawful for any person knowingly or intentionally to possess a  
13 controlled substance, other than marijuana, unless the substance was ob-  
14 tained directly from, or pursuant to a valid prescription or order of, a prac-  
15 titioner while acting in the course of professional practice, or except as  
16 otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980. Any  
17 person who violates this subsection with respect to:

18 (a) A controlled substance in Schedule I, is guilty of a Class [*B felony*]  
19 **A misdemeanor**, except as otherwise provided in ORS **475.854, 475.874 and**  
20 **475.894 and subsection (7)(a) of this section.**

21 (b) A controlled substance in Schedule II, is guilty of a Class [*C felony*]  
22 **A misdemeanor**, except as otherwise provided in ORS **475.824, 475.834,**  
23 **475.864 or [section 47, chapter 24, Oregon Laws 2016] 475.884 or subsection**  
24 **(7)(b) of this section.**

25 (c) A controlled substance in Schedule III, is guilty of a Class A  
26 misdemeanor.

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

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

30 (4) In any prosecution under this section for manufacture, possession or  
31 delivery of that plant of the genus *Lophophora* commonly known as peyote,

1 it is an affirmative defense that the peyote is being used or is intended for  
2 use:

- 3 (a) In connection with the good faith practice of a religious belief;
- 4 (b) As directly associated with a religious practice; and
- 5 (c) In a manner that is not dangerous to the health of the user or others  
6 who are in the proximity of the user.

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

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

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

16 **(7)(a) Notwithstanding subsection (3)(a) of this section, unlawful**  
17 **possession of a controlled substance in Schedule I is a Class B felony**  
18 **if:**

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

21 **(B) The person possesses:**

22 **(i) Two hundred or more user units of a mixture or substance con-**  
23 **taining a detectable amount of lysergic acid diethylamide; or**

24 **(ii) Sixty grams or more of a mixture or substance containing a**  
25 **detectable amount of psilocybin or psilocin.**

26 **(b) Notwithstanding subsection (3)(b) of this subsection, unlawful**  
27 **possession of a controlled substance in Schedule II is a Class C felony**  
28 **if the possession is a commercial drug offense under ORS 475.900 (1)(b).**

29 **SECTION 10.** ORS 475.824 is amended to read:

30 475.824. (1) It is unlawful for any person knowingly or intentionally to  
31 possess methadone unless the methadone was obtained directly from, or

1 pursuant to, a valid prescription or order of a practitioner while acting in  
2 the course of professional practice, or except as otherwise authorized by ORS  
3 475.005 to 475.285 and 475.752 to 475.980.

4 (2)(a) Unlawful possession of methadone is a Class [*C felony*] A  
5 **misdemeanor.**

6 (b) **Notwithstanding paragraph (a) of this section, unlawful pos-**  
7 **session of methadone is a Class C felony if the possession is a com-**  
8 **mercial drug offense under ORS 475.900 (1)(b).**

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

10 475.834. (1) It is unlawful for any person knowingly or intentionally to  
11 possess oxycodone unless the oxycodone was obtained directly from, or pur-  
12 suant to, a valid prescription or order of a practitioner while acting in the  
13 course of professional practice, or except as otherwise authorized by ORS  
14 475.005 to 475.285 and 475.752 to 475.980.

15 (2)(a) Unlawful possession of oxycodone is a Class [*C felony*] A  
16 **misdemeanor.**

17 (b) **Notwithstanding paragraph (a) of this subsection, unlawful**  
18 **possession of oxycodone is a Class C felony if the possession is a**  
19 **commercial drug offense under ORS 475.900 (1)(b).**

20 **SECTION 12.** ORS 475.854 is amended to read:

21 475.854. (1) It is unlawful for any person knowingly or intentionally to  
22 possess heroin.

23 (2)(a) Unlawful possession of heroin is a Class [*B felony*] A  
24 **misdemeanor.**

25 (b) **Notwithstanding paragraph (a) of this subsection, unlawful**  
26 **possession of heroin is a Class B felony if:**

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

29 (B) **The person possesses five grams or more of a mixture or sub-**  
30 **stance containing a detectable amount of heroin.**

31 **SECTION 13.** ORS 475.874 is amended to read:

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

3 (2)(a) Unlawful possession of 3,4-methylenedioxyamphetamine is a  
4 Class [*B felony*] **A misdemeanor.**

5 (b) **Notwithstanding paragraph (a) of this subsection, unlawful**  
6 **possession of 3,4-methylenedioxyamphetamine is a Class B felony**  
7 **if:**

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

10 (B) **The person possesses five grams or more or 25 or more pills,**  
11 **tablets or capsules of a mixture or substance containing a detectable**  
12 **amount of:**

- 13 (i) **3,4-methylenedioxyamphetamine;**
- 14 (ii) **3,4-methylenedioxyamphetamine; or**
- 15 (iii) **3,4-methylenedioxy-N-ethylamphetamine.**

16 **SECTION 14.** ORS 475.884 is amended to read:

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

22 (2)(a) Unlawful possession of cocaine is a Class [*C felony*] **A**  
23 **misdemeanor.**

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

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

28 (B) **The person possesses 10 grams or more of a mixture or sub-**  
29 **stance containing a detectable amount of cocaine.**

30 **SECTION 15.** ORS 475.894 is amended to read:

31 475.894. (1) It is unlawful for any person knowingly or intentionally to



1 possess methamphetamine unless the substance was obtained directly from,  
2 or pursuant to, a valid prescription or order of a practitioner while acting  
3 in the course of professional practice, or except as otherwise authorized by  
4 ORS 475.005 to 475.285 and 475.752 to 475.980.

5 (2)(a) Unlawful possession of methamphetamine is a Class [*C felony*] **A**  
6 **misdemeanor.**

7 **(b) Notwithstanding paragraph (a) of this subsection, unlawful**  
8 **possession of methamphetamine is a Class C felony if:**

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

11 **(B) The person possesses 10 grams or more of a mixture or sub-**  
12 **stance containing a detectable amount of methamphetamine.**

13 **SECTION 16.** ORS 423.478 is amended to read:

14 423.478. (1) The Department of Corrections shall:

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

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

18 (A) Allow tracking of offenders; and

19 (B) Permit analysis of correlations between sanctions, supervision, ser-  
20 vices and programs, and future criminal conduct; and

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

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

26 (a) On parole;

27 (b) On probation;

28 (c) On post-prison supervision;

29 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarcer-  
30 ation;

31 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board

1 of Parole and Post-Prison Supervision to 12 months or less incarceration for  
2 violation of a condition of parole, probation or post-prison supervision;  
3 [*and*] **or**

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

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

15 (a) When the person is released;

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

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

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

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

22 (4) As used in this section[,]:

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

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

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

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

30 (C) **Unlawful possession of methadone under ORS 475.824 (2)(a);**

31 (D) **Unlawful possession of oxycodone under ORS 475.834 (2)(a);**

1 (E) Unlawful possession of heroin under ORS 475.854 (2)(a);

2 (F) Unlawful possession of 3,4-methylenedioxymethamphetamine  
3 under ORS 475.874 (2)(a);

4 (G) Unlawful possession of cocaine under ORS 475.884 (2)(a); or

5 (H) Unlawful possession of methamphetamine under ORS 475.894  
6 (2)(a).

7 **SECTION 17.** ORS 161.570 is amended to read:

8 161.570. (1) As used in this section, “nonperson felony” has the meaning  
9 given that term in the rules of the Oregon Criminal Justice Commission.

10 (2) A district attorney may elect to treat a Class C nonperson felony or  
11 a violation of ORS 475.752 [(3)(a)] (7)(a), 475.854 (2)(b) or 475.874 (2)(b) as  
12 a Class A misdemeanor. The election must be made by the district attorney  
13 orally or in writing at the time of the first appearance of the defendant. If  
14 a district attorney elects to treat a Class C felony or a violation of ORS  
15 475.752 [(3)(a)] (7)(a), 475.854 (2)(b) or 475.874 (2)(b) as a Class A  
16 misdemeanor under this subsection, the court shall amend the accusatory  
17 instrument to reflect the charged offense as a Class A misdemeanor.

18 (3) If, at some time after the first appearance of a defendant charged with  
19 a Class C nonperson felony or a violation of ORS 475.752 [(3)(a)] (7)(a),  
20 475.854 (2)(b) or 475.874 (2)(b), the district attorney and the defendant agree  
21 to treat the charged offense as a Class A misdemeanor, the court may allow  
22 the offense to be treated as a Class A misdemeanor by stipulation of the  
23 parties.

24 (4) If a Class C felony or a violation of ORS 475.752 [(3)(a)] (7)(a), 475.854  
25 (2)(b) or 475.874 (2)(b) is treated as a Class A misdemeanor under this sec-  
26 tion, the court shall clearly denominate the offense as a Class A  
27 misdemeanor in any judgment entered in the matter.

28 (5) If no election or stipulation is made under this section, the case pro-  
29 ceeds as a felony.

30 (6) Before a district attorney may make an election under subsection (2)  
31 of this section, the district attorney shall adopt written guidelines for de-

1 termining when and under what circumstances the election may be made.  
2 The district attorney shall apply the guidelines uniformly.

3 (7) Notwithstanding ORS 161.635, the fine that a court may impose upon  
4 conviction of a misdemeanor under this section may not:

5 (a) Be less than the minimum fine established by ORS 137.286 for a felony;  
6 or

7 (b) Exceed the amount provided in ORS 161.625 for the class of felony  
8 receiving Class A misdemeanor treatment.

9 **SECTION 18. This 2017 Act being necessary for the immediate**  
10 **preservation of the public peace, health and safety, an emergency is**  
11 **declared to exist, and this 2017 Act takes effect on its passage.**

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