



Council Business Meeting

December 19, 2023

Agenda Item	Consideration of League of Oregon Cities' Recommendations for Revisions to Measure 110	
From	Tonya Graham	Mayor
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Item Type	Requested by Council <input type="checkbox"/> Update <input type="checkbox"/> Request for Direction <input type="checkbox"/> Presentation <input type="checkbox"/> Consent <input type="checkbox"/> Public Hearing <input type="checkbox"/> New Business <input type="checkbox"/> Old Business <input type="checkbox"/>	

SUMMARY

In response to concerns from the community regarding the impacts of Measure 110, Mayor Graham is presenting for Council consideration a set of legislative revision recommendations from the League of Oregon Cities, the Oregon Association of Chiefs of Police, Oregon District Attorneys Association, and the Oregon State Sheriff's Association. Mayor Graham has also drafted a potential support letter to Senator Golden and Representative Marsh that identifies priorities among the 11 recommendations and recommends that any effort to make private use of these drugs a misdemeanor occurs only after adequate treatment facilities have been developed statewide.

REFERENCES & ATTACHMENTS

Measure 110 Recommendation Letter

[League of Cities' Recommendations](#)



December 19, 2023

Dear Senator Golden and Representative Marsh,

I am writing on behalf of the Ashland City Council to express the Council's support for the Oregon Legislature to revise certain provisions of Ballot Measure 110 and put additional provisions in place to help address the significant rise in fentanyl overdose-related deaths and protect public safety across Oregon. Specifically, the Council supports the immediate adoption of 10 of the 11 attached policy recommendations developed by the League of Oregon Cities, the Oregon Association of Chiefs of Police, Oregon District Attorneys Association, and the Oregon State Sheriff's Association.

We understand that addiction is, first and foremost, a health issue and must be addressed as such. It is also very complex in that effective help must be available and people suffering from addiction must decide to accept that help in order for our society to make substantial progress in addressing addiction.

While well-intentioned, Measure 110 adjusted the legal consequences of drug use before adequately building out recovery resources to address the need. It is important that we not repeat that error in revising the program.

Therefore, of the attached recommendations, we ask that you prioritize the treatment and community-focused solutions to ensure that programs are immediately available to assist people who suffer from addiction. Without treatment programs in place and properly supported, public safety solutions designed to help people suffering from addiction re-claim their lives will simply be punitive without the long-term benefits that are clearly important to Oregonians.

Any effort to re-classify possession of a controlled substance to a misdemeanor (Recommendation 1) should be considered only after the state has put in place adequate treatment programs statewide to ensure that people who are charged with a misdemeanor can immediately access the help they need through a diversion program. Until that time, we support the remaining 10 recommendations (numbered 2-11).

Sincerely,

Tonya Graham

Mayor of Ashland on Behalf of the Ashland City Council



A Comprehensive Approach to Addressing Oregon's Addiction and Community Livability Crisis

The following policy recommendations are designed to address Oregon's severe addiction crisis, the alarming rise in fentanyl overdose-related deaths, and the detrimental effects the crisis is having on community safety and quality of life across our state. While some of these solutions are specific to addressing certain provisions of Ballot Measure 110, the approach below is meant to be comprehensive.

As your partners in public safety, we believe that Ballot Measure 110 failed to recognize that drug addiction is both a public health and public safety crisis and requires solutions on both sides of the ledger. Success will require new tools and a significant allocation of resources along with an adaptable approach that recognizes the diverse needs and challenges of each Oregon community.

RESTORING PUBLIC SAFETY SOLUTIONS:

Policy Proposal #1: Reclassify Possession of a Controlled Substance (PCS) from an E-Violation to an A-Misdemeanor

We can restore Possession of a Controlled Substance (PCS) to an A-Misdemeanor and present new post-BM 110 modifications that reflect the desire for treatment intervention. This should include diversion eligibility and dismissal of a charge upon successful completion of the one-year diversion and any required treatment (DUII approach). In addition, unlike DUII diversion, drug PCS related cases should be eligible for multiple diversion entrances. The current E-violation for possession of a controlled substance is ineffective and fails to connect persons struggling with severe addiction to the treatment they need. An A-Misdemeanor with diversion will compel those

struggling with addiction to enter treatment without turning to an approach that focuses on incarceration.

Policy Proposal #2: “Boyd/Hubbell Fix” - Modify the statutory definition of controlled substance “delivery” to include the “transfer” of drugs and the “possession with intent to transfer” drugs:

This fix focuses the policy solutions on the supply side of the equation with the dealer – not user – end of the drug crisis in Oregon. By restoring 34-years of state law that allowed the State to charge dealers when there is substantial evidence of the intent to deliver, like significant quantities of drugs, lists of sales, and cash. The proposed fix simply and clearly modifies the definition of “delivery” to include the “transfer” of drugs and the “possession with intent to transfer” drugs.

Policy Proposal #3: Modify the statutory pretrial hold language from SB 48 (2021 Legislative Session) to ensure that jails and judges have the flexibility to hold drug dealers charged with Distributing a Controlled Substance (DCS) and repeat offenders.

Senate Bill 48 (2021) required the Presiding Judge of each judicial district, following guidance from the Chief Justice and her Criminal Justice Advisory Council (CJAC), to enter a standing pretrial order specifying to the sheriff (or any other supervising entity) those persons and/or offenses that are subject to “Release on Own Recognizance” (ROR), subject to conditional release, or that are not eligible for release until arraignment. A modification in this law could make it clear that a pre-trial hold for dealers is a community priority.

Policy Proposal #4: Fund county probation departments to supervise misdemeanor theft and property crime cases where defendants are dealing with an addiction/substance abuse disorder.

Overall studies indicate that between 50% and 80% of property crimes committed in a community are committed by those suffering from severe addiction who steal to support that addiction. Currently county probation departments don’t supervise misdemeanor theft or property cases which means there is no opportunity for a drug/alcohol addiction screening and no requirement for drug treatment as part of their supervision package. This makes mitigating future harm almost impossible and fails to capture a population where there is significant overlap between persons committing property crimes and those possessing controlled substances. This solution doesn’t put additional pressure on the defense bar, as these individuals are already involved in the criminal justice system – and simply ensures they are screened and connected to mandatory treatment when needed.

Policy Proposal #5: Create a new A-Misdemeanor for “Public Use of a Controlled Substance” to align with current law prohibiting public use of alcohol and marijuana

Create a Class A Misdemeanor for public use of a controlled substance. Public use includes use in public and private buildings. The offense should be identified in statute as a “designated drug related misdemeanor” for the purposes of ORS 423.478(4)(b), which will allow for state funding of both treatment and supervision costs related to violations of the prohibition. This must be a

statewide law and not simply remove local preemption which will not allow for consistent application across local jurisdictions or the access to local county jails.

Policy Proposal #6: Create a new Class A Misdemeanor for “Use of a Controlled Substance in an Enclosed Public Space that Endangers another Person.” (Escalates to Class C Felony for Repeat Offenses)

Establishing a penalty for public use of a controlled substance must be accompanied with a penalty for use in an enclosed public space that endangers another person. The language would provide that “A person commits the crime of recklessly endangering another person if the person, while in an enclosed area, knowingly ingests, inhales, ignites, combusts or consumes a controlled substance in a manner that creates an immediate risk of ingestion, inhalation, or consumption by another person. For this purposes of this section, “enclosed area” is defined as a building or public transit vehicle or facility. It is an affirmative defense to this charge if all other persons placed at risk by the defendant’s conduct knowingly consent to the exposure. This crime would be punishable as a Class A Misdemeanor, escalating to a Class C Felony for repeat violations. This crime would be considered a “designated drug-related misdemeanor” for the purposes of ORS 423.478(4)(b).

TREATMENT & COMMUNITY FOCUSED SOLUTIONS:

Policy Proposal #7: Prioritize adequate and sustainable funding for Oregon’s Specialty Courts:

Inadequate state funding of Oregon’s specialty courts is the biggest threat to their long-term effectiveness and stability. In fact, Specialty Courts in several jurisdictions (including Multnomah, Deschutes and Benton County) are at risk of discontinuing their operations.

Specialty Courts combine accountability and supervision with a treatment-oriented approach that effectively addresses addiction and reduces recidivism rates among participants. Specialty Courts are designed to tailor treatment plans and support services to address the specific needs and challenges faced by participants. The approach has an established track record of success that addresses addiction and equips participants with the tools and support necessary to reintegrate into community life as productive citizens.

Policy Proposal #8: Establish authority to utilize welfare holds of up to 72 hours for intoxicated persons who pose a danger to self or others:

In many western states, law enforcement, EMTs and other first responders are able to utilize welfare holds of up to 72 hours where a person who is acutely intoxicated to a degree where they pose a danger to themselves or others can be held in a custodial environment and given supervised medical care. After 72 hours, the person is given the option to either leave on their own or stay and receive additional services. The states that have implemented these policies have seen a high level of engagement with aftercare and wrap-around services. This also gives

officers options other than jail or the emergency room for a person suffering from a severe substance use disorder (SUD).

Policy Proposal #9: Create adequate stabilization, detoxification and treatment capacity in jurisdictions throughout Oregon by making sustainable investments in sobering center/stabilization and treatment bed capacity for adults and juveniles.

Oregon's absence of dedicated sobering centers and stabilization facilities leaves communities helpless when dealing with severely addicted individuals who require detoxification and stabilization before they can successfully enter treatment. Detoxification is often the first step in the journey to recovery, as it helps individuals safely manage withdrawal symptoms and become physically stable before they can fully engage in addiction treatment programs. The lack of this capacity is a limiting factor in efforts to create an addiction to treatment pipeline. In addition, the Legislature should explore immediate grant funding for the expansion of existing juvenile and adult substance use disorder in-patient and outpatient treatment facilities.

Policy Proposal #10: Support the establishment of Opioid Overdose Quick Response Teams:

In response to increased opioid-related deaths, Ohio has created “Naloxone Plus” teams, also called Quick Response Teams (QRTs) that respond after a reported overdose and use of Narcan. In this model, a small team reaches out to an individual who is recovering from an overdose event and offers person-centered services. In Colerain Township, north of Cincinnati, the team has a police officer, firefighter/EMT, peer recovery mentor, or treatment professional. Between 2015 and 2019, the team responded to over 400 overdose follow ups and of the individuals contacted, 80% did an assessment and engaged in treatment. The goal of QRTs is to reach an individual in the time immediately after an overdose event, within 72 hours as best practice (but ideally much sooner than that) and to offer connections when the person may be ready to change due to the overdose event. The proposal would create grant funding for Quick Response Teams (QRT’s).

Policy Proposal #11: Support aligning the siting of residential and secure residential facilities with the requirements in the Fair Housing Act:

There is a significant need in our communities for residential – and secure residential – facilities for those experiencing mental health and substance abuse challenges across our State. This has become even more urgent given the recent federal court decision and the ongoing crisis taking place in our Oregon State Hospital. This is an urban and rural problem that is impacting communities throughout Oregon. Ensuring our land-use policies for siting secure facilities comply with federal requirements will expedite the desperately needed expansion of Oregon’s behavioral health residential treatment and supported housing capacity. All such facilities must meet the safety and security requirements currently existing in statute but would otherwise be treated and similarly situated housing.

Kevin Campbell, Oregon Association of Chiefs of Police
Jason Myers, Oregon State Sheriffs’ Association
Amanda Dalton, Oregon District Attorneys Association
Scott Winkels, League of Oregon Cities