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Examining Oregon's Drug Addiction Treatment and Recovery Act

An Evidence-Based Analysis

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Oregon's Drug Addiction Treatment and Recovery Act, also known as Measure 110, decriminalized possession of small amounts of drugs for personal use and increased funding for substance use disorder treatment, harm reduction, and social services. As of early 2023, it is premature to assess the effectiveness of the Drug Addiction Treatment and Recovery Act, as the necessary systems are still being established to connect people who use drugs with assessment, treatment, harm reduction, and supportive services (Good, Leichtling, and Pustejovsky 2023; Oregon Health Authority 2023). This brief first summarizes the existing evidence on early implementation of the law, which aims to address substance use and substance use disorders from a health perspective rather than the traditional criminal legal perspective. In summary:

- Most of the funding, $270 million for services and treatment, was delayed for almost 18 months and not allocated until June to September of 2022, creating enormous implementation challenges (Good, Leichtling, and Pustejovsky 2023). Only $33 million was awarded in 2021 (RTI 2022; Good, Leichtling, and Pustejovsky 2023).
- No scientifically rigorous evaluations of the effects of this law have been published, but some initial descriptive findings offer insight. Oregon Criminal Justice data analysis shows a 4,000 decrease in felony and misdemeanor arrests for personal drug possession after the Drug Addiction Treatment and Recovery Act was enacted, compared to 2019 levels (Good, Leichtling, and Pustejovsky 2023; Oregon State Police 2023). Another study found that the rise in 911 calls following the implementation of the law in Oregon in February 2021 was comparable in both Portland and Seattle during the same period, and thus may be attributable to factors other than the new law (RTI 2022).
- Evaluating the law's full impact will take time, considering past underfunding of services and treatment programs and the need for new infrastructure. The new law in Oregon aims to

improve substance use treatment infrastructure to address the state's low rate of people receiving needed treatment (SAMHSA 2023). Doubling the current treatment system has been found necessary to meet the demand for services (Lenahan et al. 2022). Yet some lawmakers are already communicating intentions to shift funding of related services to the state police (Health Justice Recovery Alliance 2022).

- Improving the quality, accessibility, and appeal of evidence-based interventions is a key challenge and the scope of the investment needed in services and treatment systems in Oregon is vast.

The brief then describes the rationale and research evidence on three topics currently debated in the legislature and the media regarding early implementation of the Drug Addiction Treatment and Recovery Act:

1. Overcoming stigma and stereotypes through a nonpunitive approach to engagement in and expansions of substance use–related services and treatment

   - Negative stereotypes regarding individuals who use drugs or have substance use disorders have been used in discussions of the Drug Addiction Treatment and Recovery Act (Oregon State Legislature 2022; Dooris and Mann 2022; Terry 2022). Research has shown such stereotypes to contribute to public stigma and negative attitudes, hindering effective approaches to substance use and reducing treatment engagement (Olsen and Sharfstein 2014; Kepner, Meacham, and Nobles 2022; Garett and Young 2022; Bagley et al. 2022; 2017; Baker et al. 2022; Tsai et al. 2019).
   - Research highlights the factors contributing to substance use disorders, including childhood abuse, trauma, violence, and social isolation (Cicchetti and Handley 2019; Bryant, Coman, and Damian 2020; Kim et al. 2021; Moustafa et al. 2021).
   - The belief that individuals with substance use disorder are unlikely to voluntarily seek treatment is not supported by evidence. Survey data show that about half of clients in syringe service programs are very or somewhat interested in reducing or stopping their drug use (Banta-Green, Newman, and Kingston 2018) and many engage in treatment voluntarily when it is offered in a harm reduction setting (Jakubowski et al. 2022; Taylor et al. 2021; Hood et al. 2020).
   - Voluntary treatment engagement can be supported by efforts to treat individuals with dignity and respect (Solberg and Nåden 2020), and offering clinical endpoints other than abstinence, such as reduced use (Volkow 2022), culturally and linguistically effective care (SAMHSA 2021), mental health (Han et al. 2017) and trauma care (Komaromy, Mendez-Escobar, and Madden 2021; Bryant, Coman, and Damian 2020); addressing societal and social determinants of health (Kariisa et al. 2022); and providing harm reduction services.

2. Acknowledging the importance of harm reduction in the Drug Addiction Treatment and Recovery Act

   - The Drug Addiction Treatment and Recovery Act has faced criticism for its emphasis on harm reduction (Dooris and Mann 2022). However, harm reduction services are not typically covered by health insurance, unlike substance use treatment services, leading to low access to these services, which have demonstrable positive effects (McCarty and Rieckmann 2010; Krawczyk et al. 2022).
   - Research demonstrates that harm reduction services, as part of a public health strategy, have significant positive impacts on public health (Pew 2021). In comparison, criminalizing drug use has serious negative consequences for individuals and society and does not provide a sustainable, long-term approach to the harms associated with drug use (Volkow 2021; Pew 2018).
   - Harm reduction services, such as syringe services programs, are associated with reduced overdose death rates (Walley et al. 2013; Irvine et al. 2022), decreased rates of new HIV and hepatitis C infections (Platt et al. 2017; Fernandes et al. 2017; Fraser et al. 2018; Turner et al. 2011), increased engagement in substance use disorder treatment and reduced drug use (Hagan et al. 2000; Strathdee et al. 2006; Jakubowski et al. 2022; Hood et al. 2020). Those using syringe services programs are about five times more likely to engage in treatment and three times more likely to stop using substances compared with those who do not use these programs (Hagan et al. 2000). Harm reduction services have also been shown to protect first responders from needlestick injuries (Bluthenthal et al. 2007; de Montigny et al. 2010; Riley et al. 2010; Tookes et al. 2012).

3. Coercion into substance use treatment has been found on balance to be ineffective and costly.

   - In the United States, coercive policies such as drug treatment courts and involuntary drug treatment programs in residential settings have been found to be, on balance, ineffective, inequitable, and costly. Drug court program completion rates are low (Brown 2010; Cissner et al. 2013), descriptive studies show that drug courts often do not connect participants with effective treatment options (Krawczyk et al. 2017; Matusow et al. 2013; Friedmann et al. 2012), and several studies show that drug courts exacerbate racial disparities in criminal legal systems (Smith and Taxman 2022; Marlowe, Hardin, and Carson 2016; McElrath, Taylor, and Tran 2016; Gallagher et al. 2023). Involuntary residential drug treatment has been shown to be ineffective, with increased risk of overdose, compared with those not exposed to such treatment (Vo et al. 2021; Werb et al. 2016; Sinha, Messinger, and Beletsky 2020), potential violations of civil liberties and human rights (UNDOC 2010; Wahbi and Beletsky 2022), and high costs (Neighbors et al. 2018; Payne 2022).
   - While the evidence supporting the use of coercive interventions to initiate substance use treatment and promote public safety is weak, it is also the case that the effects of implementing a voluntary treatment system in the United States have not been studied and may have unintended effects, which can include both positive and negative consequences. Therefore, robust analysis of the effects of the Drug Addiction Treatment and Recovery Act is essential.

By presenting the latest research on the potential impact of the Drug Addiction Treatment and Recovery Act, this brief aims to evaluate the characteristics of effective, evidence-based drug policies that prioritize the health and well-being of individuals and communities.

Organization of the Brief

The remainder of this brief explores three debated topics related to addressing substance use and substance use disorder that have arisen in discussions in the legislature and media regarding early implementation of the Drug Addiction Treatment and Recovery Act (Oregon State Legislature 2022; Dooris and Mann 2022; Selsky 2022): (1) stigma and stereotypes associated with drug use, (2) harm reduction services, and (3) the role of coercion in substance use treatment initiation. By presenting the latest research on the potential impacts and implications of the Drug Addiction Treatment and Recovery Act, this brief provides an overview of evidence-based drug policies that prioritize the health and well-being of individuals.

Introduction

Oregon's Drug Addiction Treatment and Recovery Act, also known as the ballot initiative Measure 110, was implemented in February 2021. This law decriminalized the possession of small amounts of drugs for personal use and increased funding for substance use disorder treatment, harm reduction, and social services for people who use drugs. Under the law, law enforcement issues citations ("Class E violations") to individuals possessing small amounts of controlled substances and provides contact information for assessments and services. As of early 2023, it premature to assess the effectiveness of this law, given that the complexity of the law will take time to assess, and that funding delays postponed expansions of services and treatment. The first implementation and process evaluations are only starting to emerge. But some lawmakers are already communicating intentions to shift funding of Drug Addiction Treatment and Recovery Act services to State Police (Health Justice Recovery Alliance 2022).

The Drug Addiction Treatment and Recovery Act emphasizes expanding access to services and treatment related to substance use that use a nonpunitive approach, particularly "to interrupt the cycle of criminal consequences" for possession of substances or substance use disorder and replace criminalization with "access to an array of networked local services without having to come into police contact first" (Good, Leichtling, and Pustejovsky 2023).

To improve the understanding, implementation, and results of the Drug Addiction Treatment and Recovery Act, it is critical to engage in robust, evidence-informed discussions. The policies that make up this law can be improved to be more effective and have a more positive impact on individuals and communities. Lawmakers' decisions about the future of the act would be most sound when informed by scientifically rigorous evaluation. Toward this goal, we first briefly review early findings.

Early Implementation and Evaluation of the Drug Addiction Treatment and Recovery Act: A Work in Progress

As of early 2023, it is premature to assess the effectiveness of the Drug Addiction Treatment and Recovery Act, as the necessary systems are still being established to connect people who use drugs with assessment, treatment, harm reduction, and supportive services (Good, Leichtling, and Pustejovsky 2023; Oregon Health Authority 2023). Early examination of the law showed that the initial rollout experienced setbacks, such as delays in funding of treatment and harm reduction services, exacerbated by gaps in staffing and training and missteps related to funding processes (Good, Leichtling, and Pustejovsky 2023). Furthermore, process studies revealed the need to clarify both the restructured criminal penalties and the roles and responsibilities of the community-led Oversight and Accountability Council (Good, Leichtling, and Pustejovsky 2023).

Although the centerpiece of the new law is funding to expand low-barrier substance use treatment and other services in every Oregon county for people who use drugs, this funding was delayed. Most of the funding, $270 million for services and treatment, was delayed and not allocated until June to September of 2022 (Good, Leichtling, and Pustejovsky 2023). Only $33 million was awarded in 2021 (RTI 2022; Good, Leichtling, and Pustejovsky 2023).

Thus, in the first 18 months of implementation, little additional services or treatment capacity were added. Regardless, law enforcement started issuing citations for drug possession, which were intended to be paired with referral to expanded services through mechanisms such as call lines. Early assessment documented law enforcement issuing citations to individuals possessing drugs but found variability in practices, with some jurisdictions issuing more citations than others, and some officers proactively providing contact information to services and treatment while others did not (Oregon Health Authority 2023). These citations (Class E violations), carry a fine between $45 and $100, which can be dismissed if the cited individual obtains a screening within 45 days. Steps to unify statewide processes regarding best practices for citations, screenings, and waiving of citations have been recommended, as have steps to improve connections to services and treatment, which were found to be poor (Good, Leichtling, and Pustejovsky 2023). However, the original intent of the law was to vastly expand services while removing law enforcement from the interaction addressing drug use and substance use disorder, so the use of Class E violations as a metric for the success of the Drug Addiction Treatment and Recovery Act is limited.

Although no scientifically rigorous evaluations of the effects of this law have been published, such as examination of causal impacts with a research design that incorporates a comparison group and controls for confounding variables, there have been some initial descriptive findings that offer insight. Analysis of Oregon Criminal Justice data indicates that the number of felony and misdemeanor arrests for personal drug possession decreased by 4,000 after enactment of the Drug Addiction Treatment and Recovery Act compared with 2019 levels (Good, Leichtling, and Pustejovsky 2023; Oregon State Police 2023). Records from the Oregon Judicial Department show 4,071 Class E violations on or after the new law took effect, with 34 dismissed after a substance use assessment (Oregon Judicial Department 2023). One study employed comparison groups to examine the effects of the new law on calls for

service, that is, 911 calls, which reflect community concerns and needs (RTI 2022). This study showed that 911 calls rose after the new law took effect in Oregon in February 2021; however, calls in Portland followed a pattern similar to those in Seattle during the study period. Thus, the authors conclude that the increase in calls after February 2021 may be attributable to factors other than the new law in Oregon, although further study is needed. Similarly, a recent decline in overdose death rates after March 2022 in Oregon state merits careful attention (CDC 2023).

Overall, the effectiveness of the Drug Addiction Treatment and Recovery Act is difficult to determine at this time, although some early data points are promising. The delayed systems expansion appears to be a misstep, particularly in conjunction with the expanded citations referring individuals to these services. It is essential to continue building a robust understanding of impacts and outcomes to develop a more comprehensive understanding of the law's impact, given its uniqueness and the challenges of conducting rigorous evaluation.

The new law in Oregon aims to improve the infrastructure for substance use treatment. The current treatment system is insufficient to meet needs for care, and doubling its capacity is necessary to meet the demand for services (Lenahan et al. 2022). While the law could reduce the cost of policing and address substance use problems, we should be wary of a perspective in which policing is placed in opposition to harm reduction and substance use services, as the need for public safety and for investments in the Drug Addiction Treatment and Recovery Act are separate matters. In the end, evaluating the effects of the new law will take time, due to Oregon's history of underfunding treatment programs and the need to build new infrastructure.

Methods

An environmental scan of peer-reviewed and gray literature was conducted to collect information and evidence on early implementation of the Drug Addiction Treatment and Recovery Act, as well as on the three debated topics related to addressing substance use and substance use disorder that have arisen in the legislature and the media, as listed above (Oregon State Legislature 2022; Dooris and Mann 2022; Selsky 2022). The literature search was performed using multiple databases, including Google Scholar, PubMed, and the Cochrane Library, and includes articles and briefs published between 2000 and March 2023. Inclusion criteria for the articles were a focus on the Drug Addiction Treatment and Recovery Act, Measure 110, substance use, substance use disorder treatment, harm reduction, drug courts, involuntary treatment, and literature related to the 2001 reform in Portugal that included drug decriminalization. The search resulted in more than 100 relevant articles and briefs, which were reviewed and analyzed. The studies included in this review were not subject to systematic quality review, although studies that lacked adequate descriptions of data and methodologies were excluded from the analysis. This environmental scan provided a broad overview of the Drug Addiction Treatment and Recovery Act and the three associated topics, but it is not comprehensive in the sense that it is not a detailed examination of all aspects of these topics.

Findings

We examine the literature assessing the rationale and evidence on three currently debated topics related to reforming the system to address substance use: (1) the importance of reducing stigma and stereotypes associated with drug use and the need to increase capacity for services and treatment that people who use drugs will engage in, (2) the value of harm reduction services within the law's public health approach, and (3) the potential role of coercion in substance use treatment initiation under this law and effects based on what is known from previous research.

Overcoming Stigma and Stereotypes: A Nonpunitive Approach to Engagement in and Expansions of Substance Use–Related Services and Treatment

The discussion surrounding the implementation of the Drug Addiction Treatment and Recovery Act has frequently involved the repetition of negative stereotypes regarding individuals who use drugs or have substance use disorders. These have focused on the personal rewards experienced by drug users, such as "euphoria," the improbability of individuals voluntarily seeking treatment, and the perceived dangerousness and "drug-fueled violence" on families (Oregon State Legislature 2022; Dooris and Mann 2022; Terry 2022).[1]

The Drug Addiction Treatment and Recovery Act states that it aims to reduce the stigma and negative stereotypes associated with drug use and addiction by emphasizing a nonpunitive approach and expanding access to treatment and services. This approach recognizes substance use disorder as a health issue rather than a criminal issue and seeks to address the underlying causes of unhealthy substance use rather than punishing individuals for substance use. Reduced stigma and negative stereotypes associated with drug use and addiction is associated with individuals with substance use disorder being more likely to seek and receive the help they need to overcome their addiction, as will be shown in the research reviewed here.

Negative stereotypes about people who use substances or have substance use disorders, particularly perceptions of dangerousness or moral failings, contribute to public stigma and negative attitudes, which in turn can hinder effective approaches to addressing substance use and reduce treatment engagement (Tsai et al. 2019; Friedmann et al. 2012; Matusow et al. 2013). The research evidence examines factors that lead to unhealthy substance use and substance use disorder, including as a means of coping with childhood abuse and neglect, sexual trauma, violence, and social isolation (Cicchetti and Handley 2019; Bryant, Coman, and Damian 2020; Kim et al. 2021; Moustafa et al. 2021).

A perspective grounded in evidence and devoid of stigma towards people who have substance use disorder is more constructive in engaging people in treatment than a punitive one, as stigma related to both the condition of substance use disorder and treatments can be a potent factor in reducing treatment engagement (Olsen and Sharfstein 2014; Kepner, Meacham, and Nobles 2022; Garett and Young 2022; Bagley et al. 2022; 2017; Baker et al. 2022). As this research demonstrates, sources of stigma that can reduce treatment engagement include self-stigma, public stigma (e.g., perceptions

among the public, including family members, of people with substance use disorder), and provider-based stigma (e.g., negative attitudes from clinicians about patients with substance use disorders).

The belief that individuals with substance use disorder are unlikely to voluntarily seek treatment is similarly not supported by evidence. This idea perpetuates negative stereotypes, portraying people with substance use disorder as lacking willpower or moral strength. It overlooks the complex interplay of biological, psychological, and social factors that contribute to substance use disorder, as well as the barriers that can make accessing treatment difficult and the possibility that the services and treatment offered do not align with those that might be sought.

While there is strong evidence that some people with substance use disorder do not need formal treatment to end their substance use disorder (Robins, Davis, and Nurco 1974), treatment is often an important part of recovery. Limited treatment capacity is a major driver of low treatment rates in Oregon (Oregon Health Authority 2023). In order to reduce drug use and engage people in treatment, the state requires a substantial increase in access to harm reduction and substance use disorder treatment (Lenahan et al. 2022). Contrary to the notion that people who use drugs will not voluntarily seek treatment, survey data show that about half of clients in syringe service programs are very or somewhat interested in reducing or stopping their drug use (Banta-Green, Newman, and Kingston 2018) and many engage in treatment voluntarily when it is offered in a harm reduction setting (Jakubowski et al. 2022; Taylor et al. 2021; Hood et al. 2020).

However, current treatment options—in addition to being scarce—may not align with the type of care people are seeking, contributing to low treatment rates. New treatment options can offer clinical endpoints other than abstinence, such as reduced use (Volkow 2022). In addition, treatment options are more likely to see robust engagement when they treat individuals with dignity and respect (Solberg and Nåden 2020), offer culturally and linguistically effective care (SAMHSA 2021), address mental health (Han et al. 2017), trauma (Komaromy, Mendez-Escobar, and Madden 2021; Bryant, Coman, and Damian 2020), and societal and social determinants of health (Kariisa et al. 2022); and provide harm reduction services that serve as a bridge to such engaging, well-designed treatment options, as will be discussed.

The Role of Harm Reduction in the Drug Addiction Treatment and Recovery Act

Critics have suggested that the Drug Addiction Treatment and Recovery Act overemphasizes harm reduction at the expense of treatment (Dooris and Mann 2022; Oregon State Legislature 2022). This criticism does not recognize that harm reduction services are generally not covered by health insurance, unlike substance use treatment services, which are already covered through health insurance regulation and prior law. Harm reduction services have historically been excluded from both health care and substance use treatment systems, instead financed by grassroots advocacy and nongovernmental organizations (Krawczyk et al. 2022). And, harm reduction services are a key component of the new law's public health strategy, as a vast body of research shows harm reduction services to be an evidence-based intervention that improves public health (Pew 2021). In contrast, criminalizing drug use—the main alternative to the expansion of harm reduction and treatment services—is shown to have

serious negative consequences for individuals and society and does not provide a sustainable, long-term approach to the harms associated with drug use (Volkow 2021; Pew 2018).

The positive impacts of harm reduction are well established as a part of health care offered to people with substance use issues. For example, syringe services programs are associated with reduced overdose death rates (Walley et al. 2013; Irvine et al. 2022), decreased rates of new HIV and hepatitis C infections (Platt et al. 2017; Fernandes et al. 2017; Fraser et al. 2018; Turner et al. 2011), increased engagement in substance use disorder treatment, and reduced drug use (Hagan et al. 2000; Strathdee et al. 2006; Jakubowski et al. 2022; Hood et al. 2020). Clients of syringe services programs are about five times more likely to engage in treatment and three times more likely to stop using substances compared with similar individuals who do not use syringe services programs (Hagan et al. 2000). Harm reduction services have also been shown to protect first responders from needlestick injuries (Bluthenthal et al. 2007; de Montigny et al. 2010; Riley et al. 2010; Tookes et al. 2012).

The organization and financing of expanded harm reduction initiatives, which include readily available services and therapy without requiring cessation of drug use as a precondition for assistance, are key components of Oregon's Drug Addiction Treatment and Recovery Act. An important concern for expanding harm reduction services is the magnitude of the expansion needed and the need to pair these with substantial expansions in treatment and social services. In 2021, Oregon ranked ninth among states (including the District of Columbia) in substance use disorder rates[2] (SAMHSA 2023). In 2020, Oregon ranked fifth among states (including the District of Columbia) in the rate of homelessness (34.7 per 10,000), below California (40.9 per 10,000) and above Washington State (30.1 per 10,000) (National Alliance to End Homelessness 2022). Thus, even if there is a massive expansion in harm reduction services, outreach efforts, and treatment options, positive outcomes will likely also require addressing other needs such as providing access to safe and stable housing, and addressing chronic physical and behavioral health conditions.

Coercion in Substance Use Treatment Initiation: On Balance, Ineffective and Costly

There is ongoing debate regarding the use of coercion to motivate individuals with substance use disorders to initiate treatment, but the value of using coercion lacks a solid empirical foundation. Before passage of the Drug Addiction Treatment and Recovery Act, drug possession and use were criminalized in Oregon. Incarceration for drug use involves a coercive approach, as individuals caught using or possessing drugs are forced into the criminal legal system, often facing penalties such as imprisonment, fines, or mandated treatment. This approach removes personal choice and autonomy, and is well documented to have negative effects on individuals, such as stigmatization, reduced access to employment and housing, and harms to family and community (Volkow 2021; Pew 2018). Criminalization of drug use is also costly (Pearl 2018), and Black, Hispanic, and American Indian populations are overrepresented in Oregon's prisons and jails (Prison Policy Initiative 2018).

Critics of Oregon's new law have suggested that reducing criminalization is a step forward, but that aspects of coercion into drug treatment are likely necessary to reduce drug use and harms (VanderHart 2022). These critics have suggested that Oregon can benefit from studying coercive elements of

Portugal's 2001 reforms, which featured drug decriminalization. Research evidence from Portugal shows that coercion was minimal and rare in the Portugal model in the early years of implementation (Domosławski 2011), and interventions were and still are conducted on a case-by-case basis by a commission outside the criminal legal system (Moury and Escada 2022). There is much to learn through a closer study of the Portugal model. However, the evidence describing the coercive aspects of Portugal's policies is somewhat ambiguous, partly because drug policies became more punitive after a 2008 Supreme Court decision, including criminal sentences of incarceration (Rêgo et al. 2021; Moury and Escada 2022).

To enhance the understanding of coercion's role in treatment initiation, including its cost effectiveness, it is also useful to examine the evidence on coercive treatment programs and policies in the United States, with drug courts being the most prominent and well-researched policy option.[3] Drug treatment courts are criminal legal diversion programs that enforce court-mandated substance use treatment and supervision as an alternative to incarceration for individuals with substance use–related offenses. Several studies have conducted descriptive analyses of the range of services offered by drug courts. A set of older studies show that more than half of drug courts do not include options for methadone and buprenorphine medication treatment for those with opioid use disorder (Friedmann et al. 2012; Matusow et al. 2013). Newer analyses confirm these low rates of medication treatment, showing that about 5 percent of "justice-referred" individuals in treatment for opioid use received methadone or buprenorphine medication treatment (Krawczyk et al. 2017). A 2017 analysis of drug courts in Florida, New Hampshire, and New York suggests that drug courts often mandated inappropriate treatment without reference to medical science or evidence, or mandated treatment for people who did not need it,[4] violating human rights (Physicians for Human Rights 2017).

Low program completion rates are an additional challenge to the validity of program evaluations (Brown 2010; Cissner et al. 2013). Rigorous evaluation of the impact of drug court programs, in other words, is challenged by the absence of a valid comparison group for a counterfactual. Studies comparing drug courts with more traditional approaches such as intensive probation generally find drug courts to be more effective (Logan and Link 2019). Recent analysis suggests that drug courts can exacerbate racial disparities in criminal legal outcomes associated with disparities in drug court participation and completion rates (Smith and Taxman 2022; Marlowe, Hardin, and Carson 2016; McElrath, Taylor, and Tran 2016; Gallagher et al. 2023). One meta-analysis showed that the reduced incarceration rate for drug court participants was offset by longer confinements among those incarcerated (Sevigny, Fuleihan, and Ferdik 2013), and another meta-analysis showed that drug courts generally cost more than they save (Rossman et al. 2011; Downey and Roman 2010). Efforts to improve the drug court system are a promising way to address individuals with violent offenses in addition to substance use disorder, incorporating lessons learned from assessments to promote equitable and inclusive practices (Gallagher et al. 2023). As members of the community, people who use drugs or have substance use disorders can be held accountable when they perpetrate harmful behaviors or commit crimes. However, for individuals who have substance use disorder and are not otherwise involved with the criminal legal system, drug court programs may not be the most effective approach.

Another prominent coercive policy option for treatment initiation in the United States is involuntary physical confinement in drug treatment programs, usually in residential or inpatient settings. These programs are often ineffective, with increased risk of overdose, little evidence of decreased risk of HIV (Vo et al. 2021; Werb et al. 2016; Sinha, Messinger, and Beletsky 2020), and potential violations of civil liberties and human rights (UNDOC 2010; Wahbi and Beletsky 2022). Involuntary programs have also been found to be costly, with a 30-day stay in a residential drug treatment program ranging from $5,000 to $20,000 for a standard traditional inpatient "rehab" program (Neighbors et al. 2018; Payne 2022). In addition, clinicians and advocates recommend choosing the least restrictive treatment setting possible to maximize the likelihood of successful treatment (Kleber et al. 2010; The Drug Policy Alliance (DPA) n.d.). Finally, a recent analysis suggests that Oregon's substance use disorder treatment system lacks the capacity and resources necessary to accommodate a large-scale policy movement toward involuntary residential care (Lenahan et al. 2022).

While the evidence supporting the use of coercive interventions to initiate substance use treatment and promote public safety is weak, it is also the case that the effects of implementing a voluntary treatment system in the United States have not been studied and may have unintended effects, which can include both positive and negative consequences. Therefore, robust analysis of the effects of the Drug Addiction Treatment and Recovery Act is essential.

Discussion

This research brief examines and elaborates on early analysis of and debates related to the current and potential impact of the Drug Addiction Treatment and Recovery Act, Oregon state legislation aimed at a nonpunitive approach to reducing the harms of substance use disorder. This brief offers an overview of existing research related to the Drug Addiction Treatment and Recovery Act and its potential impact. It draws on evidence-based practices and research on drug policy, substance use, substance use disorder treatment, and social needs.

The Drug Addiction Treatment and Recovery Act, enacted in February 2021, is still in its early stages. Its effectiveness cannot yet be fully assessed, but early studies show that the initial implementation faced setbacks, such as delayed funding, staffing issues, and confusion around new criminal penalties and oversight responsibilities (Good, Leichtling, and Pustejovsky 2023; Oregon Health Authority 2023). The vast majority of the law's funding was delayed until late 2022 impeding the primary goal of expanding substance use services and treatment (RTI 2022; Good, Leichtling, and Pustejovsky 2023). Despite these delays, law enforcement began issuing citations for drug possession, with inconsistent practices and connections to assessment and treatment services (Oregon Health Authority 2023). These issues might have been minimized had the full range of services and treatment systems been expanded before a large increase in individuals was referred to assessment through the new citations. The demand for treatment services far exceeds the capacity of the existing system, as it is estimated that the current treatment system would need to be at least doubled in size (Lenahan et al. 2022). However, some promising early findings from the Drug Addiction Treatment and Recovery Act

include that felony and misdemeanor arrests for drug possession decreased after implementation of the law (Good, Leichtling, and Pustejovsky 2023; Oregon State Police 2023), and, while 911 calls for service increased in Portland after implementation, these changes did not appear substantially different than in Seattle during the same period (RTI 2022). Overall, the law's effectiveness remains unclear, and ongoing rigorous evaluation is crucial for understanding its impact. Yet some lawmakers are already communicating intentions to shift funding of related services to the state police (Health Justice Recovery Alliance 2022).

Using the results of an environmental scan, we also examined literature on three debated topics in reforming substance use systems through the Drug Addiction Treatment and Recovery Act. First, the new law focuses on a nonpunitive approach to addressing substance use disorders, aiming to reduce stigma and negative stereotypes associated with drug use and addiction, recognizing it as a health issue rather than a criminal one. Discussion surrounding the implementation of the Drug Addiction Treatment and Recovery Act have frequently involved the repetition of negative stereotypes regarding individuals who use drugs or have substance use disorders (Oregon State Legislature 2022; Dooris and Mann 2022; Terry 2022). However, negative stereotypes contribute to public stigma and negative attitudes, hindering effective approaches to substance use and reducing treatment engagement (Tsai et al. 2019). Research highlights the factors contributing to substance use disorders, including childhood abuse, trauma, violence, and social isolation (Cicchetti and Handley 2019; Bryant, Coman, and Damian 2020; Kim et al. 2021; Moustafa et al. 2021), which contradict prevalent negative stereotypes. Stigma can reduce treatment engagement (Olsen and Sharfstein 2014; Kepner, Meacham, and Nobles 2022; Garett and Young 2022; Bagley et al. 2022; 2017; Baker et al. 2022). However, limited treatment capacity is another major barrier to treatment engagement in Oregon, and the current treatment options may not align with the type of care people are seeking, contributing to low treatment rates. More effective treatment options are those that include clinical endpoints other than abstinence, such as reduced use (Volkow 2022), treat individuals with dignity and respect (Solberg and Nåden 2020), offer culturally and linguistically effective care (SAMHSA 2021), address mental health (Han et al. 2017) and trauma (Komaromy, Mendez-Escobar, and Madden 2021; Bryant, Coman, and Damian 2020); address societal and social determinants of health (Kariisa et al. 2022); and provide harm reduction services.

Second, the Drug Addiction Treatment and Recovery Act has faced criticism for its emphasis on harm reduction (Dooris and Mann 2022). This view does not consider that harm reduction services are not typically covered by health insurance, unlike substance use treatment services: harm reduction has historically been excluded from health care and substance use treatment systems, relying on grassroots advocacy and nongovernmental organizations for funding (McCarty and Rieckmann 2010; Krawczyk et al. 2022). Research demonstrates that harm reduction services, as part of a public health strategy, have significant positive impacts on public health (Pew 2021). In comparison, criminalizing drug use is shown to have serious negative consequences for individuals and society and does not provide a sustainable, long-term approach to the harms associated with drug use (Volkow 2021; Pew 2018). Harm reduction services, such as syringe services programs, are associated with reduced overdose death rates (Walley et al. 2013; Irvine et al. 2022), decreased rates of new HIV and hepatitis C infections (Platt et al. 2017; Fernandes et al. 2017; Fraser et al. 2018; Turner et al. 2011), increased engagement in substance use

disorder treatment, and reduced drug use (Hagan et al. 2000; Strathdee et al. 2006; Jakubowski et al. 2022; Hood et al. 2020). Those using syringe services programs are about five times more likely to engage in treatment and three times more likely to stop using substances compared with those who do not use these programs (Hagan et al. 2000). Harm reduction services have also been shown to protect first responders from needlestick injuries (Bluthenthal et al. 2007; de Montigny et al. 2010; Riley et al. 2010; Tookes et al. 2012). Even if there is a massive expansion in harm reduction services, outreach efforts, and treatment options, success will likely also require addressing other needs such as providing access to safe and stable housing and addressing chronic physical and behavioral health conditions.

Finally, on balance, coercion in substance use treatment initiation lacks evidence of efficacy. Before enactment of the Drug Addiction Treatment and Recovery Act, drug possession and use were criminalized in Oregon, leading to coercive approaches that included imprisonment, fines, and mandated treatment. Critics argue that some coercion is necessary to reduce drug use and harms (VanderHart 2022), and they point to Portugal's comprehensive reforms including drug decriminalization, which initially implemented minimal coercion to encourage treatment initiation (Domosławski 2011). However, policy changes have made Portugal's drug policies more punitive toward drug users over time, therefore, implications for policy in Oregon are somewhat ambiguous (Rêgo et al. 2021; Moury and Escada 2022). In the United States, coercive policies such as drug treatment courts and involuntary drug treatment programs in residential settings have yielded mixed results at best and are costly. Evaluation studies of drug courts are generally weak, in part because program completion rates are low (Brown 2010; Cissner et al. 2013). Descriptive studies show that drug courts often do not connect participants with effective treatment options (Krawczyk et al. 2017; Matusow et al. 2013; Friedmann et al. 2012), and some studies show exacerbation of racial disparities in criminal legal systems, including disparities in drug court participation and completion rates (Smith and Taxman 2022; Marlowe, Hardin, and Carson 2016; McElrath, Taylor, and Tran 2016; Gallagher et al. 2023). Involuntary residential drug treatment has been shown to be ineffective with increased risk of overdose (Vo et al. 2021; Werb et al. 2016; Sinha, Messinger, and Beletsky 2020), potential violations of civil liberties and human rights (UNDOC 2010; Wahbi and Beletsky 2022), and high costs (Neighbors et al. 2018; Payne 2022). Moreover, the substance use treatment system in Oregon currently is far short of the capacity to accommodate a large-scale policy shift to a higher level of care than is clinically necessary (Lenahan et al. 2022).

This research brief serves as a resource for policymakers, health care providers, and the general public in their efforts to address substance use disorder and addiction in Oregon. By presenting a discussion of research and evidence on topics currently under debate, this brief provides a more comprehensive understanding of the potential impact of the Drug Addiction Treatment and Recovery Act and offers more context for effective and evidence-based drug policies that prioritize the health and well-being of individuals and communities. Improving the quality, accessibility, and appeal of evidence-based interventions is a key challenge and the scope of the investment needed in services and treatment systems in Oregon is vast. As the impact and effectiveness of Oregon's Drug Addiction Treatment and Recovery Act remains unclear, ongoing evaluation is crucial to inform its continuing implementation.

Notes

[1] In late 2022, Professor Keith Humphreys of Stanford University, a substance use research scientist, delivered testimony including on the design and implementation of Drug Addiction Treatment and Recovery Act to a committee of the Oregon legislature, in which these descriptions of people who use drugs were offered (Oregon State Legislature 2022).

[2] Rankings presented here that are based on National Survey of Drug Use and Health (NSDUH) data include individuals ages 12 and older. The rate of substance use disorder is defined as meeting criteria for "drug dependence or abuse" of traditionally illicit substance use as well as use of prescriptions in any way not directed by a clinician.

[3] While this brief is not comprehensive review of coercive policy options in addressing substance use disorder, another model with coercive elements that could be examined is the swift-certain-fair model (Bureau of Justice Assistance 2023), in which individuals who test positive for drug use are immediately sanctioned with a brief period of incarceration, typically lasting a few days. The sanction is intended to be administered consistently and quickly, regardless of the severity of the offense, with the intention that individuals understand incarceration as a certain consequences of drug use and are motivated to comply with the program's requirements. The goal is to promote abstinence by creating a coercive penalty for drug use. The effectiveness of these programs is debated (Humphreys and Kilmer 2020). However, engagement in the criminal legal system is often not swift, certain, or fair, resulting in unintended, iatrogenic harm and stigma caused by a system that restricts personal freedom or incarcerates people without a careful and individualized examination of circumstances. The swift-certain-fair model is often paired with contingency management treatment (Humphreys and Kilmer 2020), and it may be that the insights that underlay swift-certain-fair models could be used to deploy positive contingency management rewards for reduced substance use and pro-social behaviors.

[4] For example, mandating a substance use treatment plan for an individual sentenced for cannabis possession but whose doctor indicates does not need treatment for a substance use disorder.

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