

SENATE BILL REPORT

SB 5966

As Reported by Senate Committee On:
Law & Justice, January 15, 2014

Title: An act relating to possession or use of alcohol, cannabis products, and controlled substances in sentencing provisions.

Brief Description: Concerning the possession or use of alcohol, cannabis products, and controlled substances in sentencing provisions.

Sponsors: Senators Padden and Kline.

Brief History:

Committee Activity: Law & Justice: 1/13/14, 1/15/14 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5966 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Kline, Ranking Member; Darneille, Pearson, Pedersen and Roach.

Staff: Aldo Melchiori (786-7439)

Background: As part of any felony sentence, the court may impose crime-related prohibitions. When the court finds that the offender has a chemical dependency issue that contributed to the person's offense, the court may, as a condition of the sentence, order the offender to participate in rehabilitative programs or perform affirmative conduct reasonably related to the circumstances of the crime.

In *State v. Warnock* (2013), there was ample evidence of the offender's alcohol intoxication during the offense, but there was no evidence and no court finding regarding the abuse of any other substance. The trial court ordered a chemical dependency evaluation and treatment. The Court of Appeals remanded the case to the trial court to impose only an alcohol evaluation and treatment.

Summary of Bill (Recommended Substitute): Crime-related prohibitions are defined to include prohibition on the use or possession of alcohol, cannabis, or controlled substances if the court finds that any chemical or substance abuse contributed to the offense. If a court

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

finds that any chemical dependency contributed to the offense, the court may order participation in rehabilitative programs for alcohol, cannabis, or controlled substances as a condition of the sentence regardless of the particular substance that contributed to the offense. The court may impose a prohibition on the use or possession of alcohol, cannabis products, or controlled substances regardless of whether a chemical dependency evaluation is ordered. The court may not restrict the possession and use of medical marijuana for medical purposes by persons with a valid medical marijuana authorization.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): The court may not restrict the possession and use of medical marijuana for medical purposes by persons with a valid medical marijuana authorization.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This corrects a literal reading of the statute by the court that produces an unintended consequence. Many defendants have poly-substance abuse issues that need to be addressed. If medical marijuana or medications are being used by the defendant, the court will exercise its discretion to make sure that the defendant receives the required health care. This could help discourage defendants from just switching to a different drug to abuse.

CON: Only adequate procedural safeguards can assure that judges exercise discretion. Judges should not be able to deny medical marijuana without due process. Judges should not use the Legislature as a method of overturning judicial decisions. It is fine to restrict recreational use, but there should be more consideration for medical marijuana users.

Persons Testifying: PRO: Judge Salvatore Cozza, Spokane County Superior Court.

CON: Cayce Young, Cannabis Action Coalition/MISTA; Steve Sarich, Cannabis Action Coalition; Arthur West, citizen.