

# SENATE BILL REPORT

## SB 5104

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As of January 15, 2015

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

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

**Sponsors:** Senator Padden.

**Brief History:**

**Committee Activity:** Law & Justice: 1/15/15.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Tim Ford (786-7423)

**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:** 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 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.

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*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.*

**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 bill is a technical fix. It passed out of the Senate Law & Justice Committee last year and the Washington Superior Court Judges Association supports the authority and necessity for a judge to exercise discretion for imposing sentences with crime-related prohibitions. Individuals who abuse one substance most often abuse other substances. A behavior caused by an addiction can lead to other abuses. This is an issue of public safety. Courts should not be hamstrung or unnecessarily restricted by limiting a sentencing condition to prohibit just the one substance which was abused. The change in law proposed by the bill would not grant a judge unbridled discretion.

**Persons Testifying:** PRO: Greg Canova, Judge (ret.), WA Superior Court Judges Assn.