

SENATE BILL REPORT

SB 6585

As of February 5, 2020

Title: An act relating to encouraging the use of medication-assisted treatment within jails.

Brief Description: Encouraging the use of medication-assisted treatment within jails.

Sponsors: Senators Zeiger, Walsh, Darneille, O'Ban, Conway, Nguyen and Wilson, C.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 2/05/20.

Brief Summary of Bill

- Requires county jails to provide and allow the use of medication assisted treatment for persons in custody experiencing opioid use disorders.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Staff: Kelsey-anne Fung (786-7479)

Background: Medications to Treat Opioid Use Disorder. Medications to treat opioid use disorder (OUD), also referred to as medication assisted treatment (MAT), is a form of treatment which uses medications approved by the Federal Drug Administration (FDA). Methadone, buprenorphine, and naltrexone are common medications used to treat OUD.

Opioid Use Disorder Legislation. In 2019, the Legislature passed legislation aimed at addressing the statewide opioid epidemic. Included were several provisions relating to MAT in jails. Any region or county that uses state criminal justice treatment account funds to support a therapeutic court must allow therapeutic court participants to use medications approved by the FDA for the treatment of OUD as medically appropriate. The Health Care Authority may assist the courts with acquiring the medication. To the extent funding is provided, city and county jails must provide OUD medication to individuals in custody who received OUD medication through a legally authorized medical program or valid prescription immediately before incarceration, or at least 30 days before release if deemed medically appropriate. City and county jails must make reasonable efforts to directly connect incarcerated individuals receiving OUD medication to an appropriate provider or treatment site.

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.

Whatcom County Jail. In June 2018, a class-action lawsuit was filed on behalf of people with OUD in the Whatcom County jail who were not receiving access to medications. According to the American Civil Liberties Union (ACLU), the lawsuit challenged Whatcom County's refusal to provide access to MAT even though it provides other clinically appropriate medications to inmates. The ACLU alleged the jail was discriminating against those individuals and that opioid use disorder is a chronic condition protected by the Americans with Disabilities Act. In the settlement agreement, the Whatcom County jail must provide MAT services to medically appropriate inmates with OUD, regardless of whether they were already taking MAT at their time of entry to the Whatcom County jail. The jail must allow inmates with existing MAT prescriptions for OUD to continue on their prescription as long as clinically needed. If an inmate is reasonably expected to be transferred or otherwise released from custody within 24 to 36 hours, the person will receive supportive care until release so they may continue their MAT upon release.

Department of Social and Health Services Study. According to a July 2018 study prepared for the Division of Behavioral Health Recovery of the Department of Social and Health Services, *Providing Medication to Treat Opioid Use Disorder in Washington State Jails*, 14 of the 33 surveyed jails are actively providing opioid treatment medications. The most commonly used medication is buprenorphine, used in 12 of the 14 jails. The most common use of opioid treatment medications was for the maintenance of treatment that began prior to the individual's incarceration.

Fees for Medication. Medicaid and private insurance will not generally pay for an inmate's health care while the person is in jail. Many jails charge a fee for certain types of health care services, including prescription medication.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Subject to appropriations, county jails must provide MAT therapies and allow the use of FDA-approved MAT for persons in custody experiencing OUDs, as deemed medically appropriate by a medical professional.

The provision is null and void if funding is not appropriated for this purpose.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Proposed Substitute: PRO: City and county jails need MAT but need to find funding for it, and need to find new funding. Stopping the sweeper of the Criminal Justice Treatment Account could help 200 more people in drug court. Anywhere where society can divert people to MAT, they should, and they need to keep

them on MAT. If the person is in custody in jail, and MAT is appropriate, it is a good place to catch them and get them on MAT.

OTHER: Support assistance for jails to combat public health problem and help people stop addiction and start their way to recovery to become productive citizens. Need to consider the range of sizes of city and county jails. If providing MAT becomes a requirement for counties, we need to provide sufficient funding because smaller jails do not have 24 hour medical services or pharmacies nearby. There are some jails with as few as 12 beds, and some with as many as 89 beds.

Persons Testifying: PRO: Senator Hans Zeiger, Prime Sponsor; Bob Cooper, Washington State Association of Drug Court Professionals and National Association of Social Workers—WA Chapter.

OTHER: Juliana Roe, Washington State Association of Counties; Sharon Swanson, Association of Washington Cities; James McMahan, Washington Association of Sheriffs and Police Chiefs; Dennis Weber, Cowlitz County Commissioner.

Persons Signed In To Testify But Not Testifying: No one.