

ESB 5476 - H AMD TO APP COMM AMD (H-1622.1/21) **762**
By Representative Goodman

ADOPTED 04/24/2021

1 On page 13, line 30, after "including" insert "persons with co-
2 occurring substance use disorders and mental health conditions, and"

3 On page 13, beginning on line 33, after "by the" strike all
4 material through "commission" on line 34 and insert "commission in
5 collaboration with the University of Washington behavioral health
6 institute"

7 On page 13, beginning on line 37, after "training, the" strike
8 "behavioral health institute" and insert "commission"

9 On page 14, beginning on line 30, after "use" strike all material
10 through "agency" on line 32 and insert "during in-service training"

11 On page 15, beginning on line 21, after "misdemeanor." strike all
12 material through "treatment." on line 25 and insert "The prosecutor
13 is encouraged to divert such cases for assessment, treatment, or
14 other services."

15 On page 15, line 33, after "(2)" strike all material through
16 "~~any~~) A" and insert "Except as provided in RCW 69.50.4014, any"

17 Beginning on page 15, line 36, after "(3)" strike all material
18 through "treatment." on page 16, line 2 and insert "The prosecutor is
19 encouraged to divert cases under this section for assessment,
20 treatment, or other services."

21 On page 17, after line 3, insert the following:

22 "**Sec. 10.** RCW 69.50.4014 and 2015 2nd sp.s. c 4 s 505 are each
23 amended to read as follows:

24 Except as provided in RCW 69.50.401(2)(c) or as otherwise
25 authorized by this chapter, any person found guilty of knowing
26 possession of forty grams or less of marijuana is guilty of a

1 misdemeanor. The prosecutor is encouraged to divert cases under this
2 section for assessment, treatment, or other services."

3 Renumber the remaining sections consecutively and correct any
4 internal references accordingly.

5 On page 18, beginning on line 16, after "misdemeanor." strike all
6 material through "treatment." on line 20 and insert "The prosecutor
7 is encouraged to divert such cases for assessment, treatment, or
8 other services."

9 On page 19, beginning on line 30, after "misdemeanor." strike all
10 material through "treatment." on line 34 and insert "The prosecutor
11 is encouraged to divert such cases for assessment, treatment, or
12 other services."

13 On page 19, after line 34, insert the following:

14 "NEW SECTION. Sec. 12. A new section is added to chapter 10.31
15 RCW to read as follows:

16 (1) For all individuals who otherwise would be subject to arrest
17 for possession of a counterfeit substance under RCW 69.50.4011,
18 possession of a controlled substance under RCW 69.50.4013, possession
19 of 40 grams or less of marijuana under RCW 69.50.4014, or possession
20 of a legend drug under RCW 69.41.030(2)(b), in lieu of jail booking
21 and referral to the prosecutor, law enforcement shall offer a
22 referral to assessment and services available pursuant to RCW
23 10.31.110 or other program or entity responsible for receiving
24 referrals in lieu of legal system involvement, which may include the
25 recovery navigator program established under section 2 of this act.

26 (2) If law enforcement agency records reflect that an individual
27 has been diverted to referral for assessment and services twice or
28 more previously, officers may, but are not required to, make
29 additional diversion efforts.

30 (3) Nothing in this section precludes prosecutors from diverting
31 or declining to file any charges for possession offenses that are
32 referred under RCW 69.50.4011, 69.50.4013, 69.50.4014, or
33 69.41.030(2)(b) in the exercise of their discretion."

34 Renumber the remaining sections consecutively and correct any
35 internal references accordingly.

1 Beginning on page 20, line 27, strike all of sections 13 through
2 17

3 Renumber the remaining sections consecutively and correct any
4 internal references accordingly.

5 On page 31, at the beginning of line 10, strike all material
6 through "~~(69.50.4014)~~" on line 11 and insert "E Possession of
7 Marihuana < 40 grams E
8 (69.50.4014)"

9 On page 38, beginning on line 26, strike all of section 20

10 Renumber the remaining sections consecutively and correct any
11 internal references accordingly.

12 On page 52, after line 11, insert the following:

13 **"Sec. 24.** RCW 10.64.110 and 1977 ex.s. c 259 s 1 are each
14 amended to read as follows:

15 (1) Following June 15, 1977, except as provided in subsection (3)
16 of this section, there shall be affixed to the original of every
17 judgment and sentence of a felony conviction in every court in this
18 state and every order adjudicating a juvenile to be a delinquent
19 based upon conduct which would be a felony if committed by an adult,
20 a fingerprint of the defendant or juvenile who is the subject of the
21 order. When requested by the clerk of the court, the actual affixing
22 of fingerprints shall be done by a representative of the office of
23 the county sheriff.

24 (2) The clerk of the court shall attest that the fingerprints
25 appearing on the judgment in sentence, order of adjudication of
26 delinquency, or docket, is that of the individual who is the subject
27 of the judgment or conviction, order, or docket entry.

28 (3) Amended judgment and sentences issued pursuant to *State v.*
29 *Blake*, No. 96873-0 (Feb. 25, 2021), are exempt from the
30 fingerprinting requirements in subsection (1) of this section when
31 there are no additional offenses of conviction from the original
32 judgment and sentence and the defendant is in custody in a
33 correctional facility. In such cases, the amended judgment and
34 sentence shall reference the original judgment and sentence and the
35 fingerprints affixed thereto."

1 Renumber the remaining sections consecutively and correct any
2 internal references accordingly.

3 On page 52, beginning on line 20, strike all of sections 25 and
4 26

5 Renumber the remaining sections consecutively and correct any
6 internal references accordingly.

7 On page 52, line 33, after "Sections" strike "1 through 10, 12,
8 18, 19, 21 through 24, and 26" and insert "1 through 11 and 13
9 through 21"

10 On page 53, line 7, after "Sections" strike "8, 9, 11, 19, and
11 24" and insert "8 through 10, 12, 15, and 16"

12 On page 53, beginning on line 9, strike all of section 31

13 Renumber the remaining section consecutively and correct any
14 internal references accordingly.

EFFECT: Removes provisions requiring a prosecutor to divert to treatment alleged violations of possession of a controlled substance, possession of a counterfeit substance, or possession of a legend drug. Requires instead that, for such violations, law enforcement officers must offer a referral to available assessment and services in lieu of jail booking and referral to the prosecutor. Provides that if law enforcement records indicate that a person has previously been diverted to referral for assessment and services at least twice, the officer may, but is not required to, make additional diversion efforts. Provides that prosecutors are not precluded from exercising discretion to divert or decline to file charges when referred drug possession cases, and are encouraged to divert such cases for assessment, treatment, or other services.

Removes provisions that reclassify misdemeanor drug possession offenses as class 2 civil infractions on July 1, 2023, and instead reverts to current law for possession offenses on that date.

Provides that law enforcement training on interaction with persons with substance use disorders must be developed by the Criminal Justice Training Commission in collaboration with the University of Washington Behavioral Health Institute, rather than by the University of Washington Behavioral Health Institute in collaboration with the Criminal Justice Training Commission. Specifies that, for purposes of the training, persons with substance use disorders includes persons with co-occurring substance use disorders and mental health conditions. Provides that, in addition to including the training in basic law enforcement training, the training must be made available to law enforcement agencies for use during in-service training (rather than for use at the agencies' convenience and determined by internal training needs and resources).

Makes an exception to the requirement that the defendant's fingerprints are affixed to the judgment and sentence for

circumstances in which the judgment and sentence is an amended judgment and sentence issued pursuant to *State v. Blake*, there are no other offenses of conviction from the original judgment and sentence, and the defendant is in custody in a correctional facility.

--- **END** ---