HOUSE BILL REPORT
ESB 5476

As Reported by House Committee On:
Appropriations

Title: An act relating to addressing the State v. Blake decision.

Brief Description: Responding to the State v. Blake decision by addressing justice system responses and behavioral health prevention, treatment, and related services.

Sponsors: Senators Dhingra, Hasegawa, Hunt, Kuderer, Lovelett, Nguyen, Pedersen, Rivers, Robinson, Saldaña and Wellman.

Brief History:
Committee Activity:
Appropriations: 4/19/21, 4/21/21 [DPA].

Brief Summary of Engrossed Bill
(As Amended By Committee)

- Requires the Heath Care Authority (HCA), in collaboration with the Substance Use Recovery Services Advisory Committee, to implement measures that assist persons with substance use disorder in accessing outreach, treatment, and recovery support services.
- Requires that each behavioral health administrative services organization establish a recovery navigator program to provide community-based outreach, intake, assessment, connection to services, and long-term intensive case management and recovery coaching services to individuals with substance use disorder.
- Establishes funding programs related to increased substance use disorder treatment services, expanded recovery support services, homeless outreach stabilization transition programs, projects for psychiatric outreach to the homeless program, substance misuse prevention efforts, and contingency management programs.
- Modifies offenses and penalties under the Uniform Controlled

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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 part of the legislation nor does it constitute a statement of legislative intent.

Substances Act and related provisions.

- Modifies the provisions authorizing alternatives to arrest for persons with mental health disorders to include persons with substance use disorder and to expand referral options and processes.
- Requires basic law enforcement training to include training on interactions with persons with substance use disorder.
- Authorizes the superior court of any county to appoint commissioners to conduct hearings for resentencing and vacating convictions related to the *State v. Blake* decision.
- Outlines circumstances under which persons with invalidated drug possession convictions may be released from the Department of Corrections pursuant to a court order.
- Creates an account to provide funding for state and local costs and reimbursement of legal financial obligations related to the *State v. Blake* decision.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Johnson, J., Lekanoff, Pollet, Ryu, Senn, Springer, Stonier, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 10 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Chandler, Dye, Hoff, Jacobsen and Schmick.

Minority Report: Without recommendation. Signed by 4 members: Representatives Caldier, Harris, Rude and Steele.

Staff: Omeara Harrington (786-7136), Cassie Jones (786-7303), Christopher Blake (786-7392), Yvonne Walker (786-7841), and Andrew Toulon (786-7178).

Background:

Behavioral Health Services.
The Health Care Authority (HCA) provides medical care services to eligible low-income state residents and their families, primarily through the Medicaid program. While some clients receive services through the HCA on a fee-for-service basis, the large majority

receive coverage for medical services through managed care systems. Managed care is a prepaid, comprehensive system for delivering a complete medical benefits package that is available for eligible families, children under age 19, low-income adults, certain disabled individuals, and pregnant women. Since January 1, 2020, all behavioral health services and medical care services have been fully integrated in a managed care health system for most Medicaid clients.

While most Medicaid clients receive behavioral health services through a managed health care system, behavioral health administrative service organizations (BHASO) administer certain behavioral health services that are not covered by the managed health care system within a specific regional service area. There are 10 BHASOs in Washington. The services provided by a BHASO include maintaining continuously available crisis response services, administering services related to the involuntary commitment of adults and minors, coordinating planning for persons transitioning from long-term commitments, maintaining an adequate network of evaluation and treatment services, and providing services to non-Medicaid clients in accordance with contract criteria.

Offenses and Penalties in the Uniform Controlled Substances Act and Related Provisions. The Uniform Controlled Substances Act regulates the manufacture, distribution, and dispensation of controlled substances. It also criminalizes and prohibits certain conduct related to controlled substances and counterfeit substances. The criminal penalties and infractions for violating the Uniform Controlled Substances Act depend upon the nature of the violation and the type of substance.

A "controlled substance" means a drug or substance included in Schedules I through V, with some exceptions. Drugs and substances are placed on schedules based on their potential for abuse, medical use, and safety. Substances in Schedule I are the most tightly controlled, while those in Schedule V are the least tightly controlled. A "counterfeit substance" is a controlled substance which has been altered to look like a substance produced or distributed by a manufacturer, distributor, or dispenser. Related provisions regulate legend drugs (prescription drugs).

Among others, crimes contained in the Uniform Controlled Substances Act and related provisions include:

- possession of a controlled substance, unless authorized by law or obtained through a valid prescription, which is a class C felony;
- possession of 40 grams or less of marijuana, unless authorized by law, which is a misdemeanor;
- possession, manufacture, or distribution of a counterfeit substance unless authorized by law, which is a class B or class C felony depending on the substance;
- possession, sale, or delivery of any legend drug, except pursuant to a prescription, which is a class B felony if the offense involves sale, delivery, or possession with intent to deliver, or a misdemeanor for a simple possession offense; and
- use, delivery, or possession or manufacture with intent to deliver, drug paraphernalia,

which is generally a misdemeanor, but becomes a gross misdemeanor if the drug paraphernalia is delivered to a minor at least three years younger than the defendant.

State v. Blake.
Under the Uniform Controlled Substances Act, possession of a controlled substance is a strict liability offense, meaning that no mens rea (guilty state of mind) element must be proven in order to convict a person of the offense. In *State v. Blake*, the Washington Supreme Court held that the strict liability nature of the offense violates the due process clauses of the state and federal constitutions and exceeds the state's police power. The Court invalidated the portion of the statute creating the simple possession crime.

Alternatives to Arrest for Persons with Behavioral Health Disorders.
When a police officer has reasonable cause to believe that an individual has committed a crime, and the individual is known by history or consultation with relevant behavioral health professionals to suffer from a mental disorder, as an alternative to arrest, the arresting officer is authorized and encouraged to take certain actions to facilitate the person receiving treatment services. The officer may take the individual to a crisis stabilization unit or triage facility, or refer the individual to a mental health professional, for evaluation for possible civil commitment proceedings. The officer may also release the individual upon the individual's agreement to voluntarily participate in outpatient treatment. The officer's decision as to whether to refer the individual to treatment in lieu of arrest must be guided by the local law enforcement diversion guidelines for behavioral health developed and mutually agreed upon with the prosecuting authority. If an individual violates an agreement to participate in treatment in place of arrest, and the treatment is no longer appropriate, the provider must inform the law enforcement agency and the original charges may be filed or referred to the prosecutor.

Basic Law Enforcement Training.
The Criminal Justice Training Commission provides basic law enforcement training and educational programs for law enforcement, corrections officers, and other public safety professionals in Washington. Basic law enforcement officer training is required of all law enforcement personnel, with the exception of volunteers and reserve officers. The Basic Law Enforcement Academy consists of a 720-hour program covering a variety of subjects including: criminal law and procedures; traffic enforcement; cultural awareness; communication and writing skills; emergency vehicle operations; firearms; crisis intervention; patrol procedures; criminal investigation; and defensive tactics.

Court Commissioners.
The Washington Constitution authorizes the superior courts to appoint up to three court commissioners in each county. Court commissioners appointed by constitutional authority have the power to perform all the duties of a superior court judge that do not require a trial by jury, and other duties provided by law to aid in the administration of justice. The Legislature has authorized superior courts to appoint additional commissioners who are limited to the authority that they are expressly granted in statute. Criminal commissioners

may be appointed in counties with a population of more than 400,000. These commissioners have authority to preside over a variety of preliminary matters in adult criminal cases including arraignments, probable cause determinations, and bail determinations, among other matters.

Release from Confinement.
No person serving a sentence and committed to the custody of the Department of Corrections may leave the confines of the correctional facility, or be released prior to the expiration of the sentence, except under statutorily prescribed circumstances. For example, an offender may be released prior to the expiration of his or her sentence if the offender earns early release time, is given an extraordinary medical placement, or is pardoned.

Summary of Amended Bill:

Substance Use Disorder Services.
Substance Use Recovery Services Plan.
The Health Care Authority (HCA) must establish a substance use recovery services plan (plan) to implement measures that assist persons with substance use disorder in accessing outreach, treatment, and recovery support services. The plan must articulate the manner in which continual, rapid, and widespread access to a comprehensive continuum of care is provided to all persons with substance use disorder.

The HCA must establish the Substance Use Recovery Services Advisory Committee (Advisory Committee) and collaborate with it when developing and implementing the plan. The HCA must consult with the University of Washington Department of Psychiatry and Behavioral Sciences and an organization that represents the interests of people who have been directly affected by substance use and the criminal legal system in appointing members to the advisory committee. In developing the plan, the HCA must give due consideration to the recommendations of the Advisory Committee. If the HCA finds that any of the recommendations are not feasible, it must notify the Advisory Committee and request refinement or modification of the recommendations. The Advisory Committee is also responsible for monitoring the implementation of the plan.

The plan must consider:
- the manner in which persons with substance use disorder currently access and interact with the behavioral health system;
- the points of intersection that persons with substance use disorder have with the health care, criminal, legal, and child welfare systems;
- the various locations in which persons with untreated substance use disorder congregate;
- new community-based care access points;
- current regional capacity for existing programs providing substance use disorder assessments, levels of care, and recovery support services;

- barriers to accessing the existing behavioral health system for indigent youth and adults in need of assessments, services, treatment, and waivers of civil infraction penalties and for populations chronically exposed to the criminal legal system, and possible innovations to improve accessibility;
- evidence-based, research-based, and promising treatment and recovery services appropriate for target populations;
- workforce needs for the behavioral health sector;
- options for leveraging existing integrated managed care, Medicaid waiver, American Indian or Alaska Native fee-for-service behavioral health benefits, and private insurance service capacity for substance use disorder;
- framework and design assistance for jurisdictions to comply with requirements relating to the diversion of individuals with complex behavioral health conditions to community-based care;
- the design of recovery navigator programs, including reporting requirements;
- the design of ongoing research about the types of services desired by people with substance use disorder and barriers they experience in accessing existing and recommended services;
- the proposal of a funding framework in which resources are eventually shifted from punishment sectors to community-based care interventions such that community-based care becomes the primary strategy for addressing and resolving public order issues related to behavioral health conditions;
- strategic grants to community organizations to educate the public;
- innovative mechanisms for real time, peer-driven, noncoercive outreach and engagement to individuals in active substance use disorder and develop measures to enhance the effectiveness of interventions; and
- diversion to community-based care for individuals with substance use disorder across all points of the sequential intercept model.

The plan must give due consideration to the needs of youth and include specified substance use disorder services, including: field-based outreach and engagement; peer recovery support services; intensive case management; substance use disorder treatment; and recovery support services including housing, job training, and placement services. These services must be made available in or accessible to all jurisdictions, must be equitably distributed across urban and rural settings, and, if possible, made available on-demand through innovative rapid response models.

The HCA must submit the plan to the Governor and the Legislature by December 1, 2021. The HCA must adopt rules in accordance with the Advisory Committee's recommendations and enter into contracts with providers to implement the plan by December 1, 2022. By November 1, 2022, the HCA must submit a readiness report to the Governor and the Legislature indicating the progress on the substance use disorder continuum of care, including availability of outreach, treatment, and recovery support services. In consultation with the advisory committee, the HCA must submit a report on the implementation of the plan to the Legislature and the Governor by December 1 of each year, beginning in 2022.

Recovery Navigator Program.
Each behavioral health administrative services organization (BHASO) must establish a recovery navigator program to provide community-based outreach, intake, assessment, connection to services, and, as appropriate, long-term intensive case management and recovery coaching services to youth and adults with substance use disorder who are referred to the recovery navigator program. The HCA must provide funding to BHASOs to develop their recovery navigator programs according to plans developed by each BHASO. The HCA must establish uniform standards for each BHASO to follow in establishing its recovery navigator program. Recovery navigator program standards must be modelled upon the law enforcement assisted diversion program and address project management, field engagement, biopsychosocial assessment, intensive case management and care coordination, stabilization housing, and legal system coordination. The recovery navigator program must accept referrals from a range of sources, beyond only law enforcement, including self-referrals, family members, emergency department personnel, persons engaged with homeless encampments, fire department personnel, emergency medical service personnel, community-based organizations, the business community, harm reduction program personnel, faith-based organizations, and other sources within the criminal legal system. Each BHASO must have a substance use disorder regional administrator to manage its recovery navigator program, including maintaining sufficient staff with appropriate training.

Enhanced Substance Use Disorder Services.
Subject to appropriated amounts, the HCA must establish several funding programs.

The HCA must establish a grant program that provides: (1) treatment services to low-income individuals with substance use disorder who are not eligible for medical assistance, with priority to very low-income individuals; and (2) treatment services that are not eligible for federal matching funds to individuals enrolled in medical assistance. Under the grant program, the HCA must consult with BHASOs, managed care organizations, and regional behavioral health providers to adopt regional standards to meet the region's need for opioid treatment programs, low-barrier buprenorphine clinics, outpatient substance use disorder treatment, withdrawal management services, secure withdrawal management and stabilization services, inpatient substance use disorder treatment service, inpatient co-occurring disorder treatment services, and behavioral health crisis walk-in and drop-off services. The grants must be used to reimburse providers for services and may be used to provide assistance to organizations to establish or expand services to meet regional standards. The HCA must establish the regional standards by January 1, 2022, and begin distributing funds no later than March 1, 2022.

The HCA must establish a program to provide funds to increase access to recovery support services for individuals in recovery from substance use disorder. Under the program, the HCA must consult with BHASOs, managed care organizations, regional behavioral health providers, and regional community organizations that support individuals in recovery from

substance use disorder to adopt a regional expanded recovery plan. The plan must provide sufficient access for youth and adults to meet the region's need for recovery housing; employment pathways, support, and training; education pathways; recovery coaching and substance use disorder peer support; social connectedness initiatives; family support services; technology-based recovery support services; transportation assistance; and legal support services. The funds must be used to reimburse providers for services and may be used to provide assistance to organizations to establish or expand services to meet regional standards. The HCA must establish the regional standards by January 1, 2022, and begin distributing funds no later than March 1, 2022.

The HCA must establish a homeless outreach stabilization transition program to expand access to modified assertive community treatment services to people who are experiencing homelessness and are living with serious substance use disorders or co-occurring substance use disorders and mental health conditions that are at an acuity level that creates a barrier to accessing and receiving conventional behavioral health services and outreach models. The funds must be used to reimburse organizations for the provision of outreach services and may be used to assist organizations to establish or expand services to create a homeless outreach stabilization transition program. The HCA must establish one or more homeless outreach stabilization transition programs by January 1, 2022, and begin distributing funds no later than March 1, 2022.

The HCA must establish a project for psychiatric outreach to the homeless program to expand access to behavioral health medical services for people who are experiencing homelessness or are living in permanent supportive housing and would be at risk of homelessness without access to appropriate services. The funds must be used to reimburse organizations for the provision of medical services to individuals who are living in recovery from substance use disorders, co-occurring substance use and mental health conditions, or other behavioral and physical health conditions. The HCA must establish one or more projects for psychiatric outreach to the homeless programs by January 1, 2022, and begin distributing funds no later than March 1, 2022.

The HCA must administer a competitive grant process to broaden existing local community coalition efforts to prevent substance misuse by increasing protective factors and decreasing risk factors.

The HCA must increase contingency management resources for opioid treatment networks that serve people with co-occurring stimulant use and opioid disorders.

In addition, the HCA must to develop a plan for implementing a comprehensive substance misuse prevention effort by January 1, 2022.

<u>Offenses and Penalties in the Uniform Controlled Substances Act and Related Provisions</u>.

Possession of Controlled Substances, Counterfeit Substances, and Legend Drugs.

In order to be convicted of possession of a controlled substance, possession of a counterfeit substance, or possession of a legend drug, the person must have knowingly been in possession of the substance or drug.

Until July 1, 2023, possession of a controlled substance is reclassified from a class C felony to a misdemeanor, and possession of a counterfeit substance is reclassified from a class B or C felony to a misdemeanor. In cases of possession of a controlled substance, counterfeit substance, or legend drug, the prosecutor must divert a case for treatment if the alleged violation is the person's first or second violation. On a person's third and subsequent violations, the prosecutor is encouraged to divert the case for treatment.

On and after July 1, 2023, possession of a controlled substance, possession of a counterfeit substance, or possession of a legend drug is a class 2 civil infraction subject to a $125 fine, rather than a misdemeanor. The officer issuing the infraction must refer the person to a recovery navigator program for evaluation and services, and must notify the program of the infraction. The monetary penalty for the infraction must be waived upon verification that the person has received an assessment under the program within 30 days of receiving the infraction.

Drug Paraphernalia.
Use or delivery of drug paraphernalia is no longer a criminal offense if the use or delivery is for the purpose of injecting, ingesting, inhaling, or otherwise introducing a controlled substance into the human body, or for testing, analyzing, packing, or storing the substance.

Alternatives to Arrest.
The provisions outlining alternatives to arrest for persons with mental health disorders are modified to also expressly apply to persons with substance use disorder. Community health providers are among those who may consult with law enforcement about a contacted individual's history. When the officer refers a person for an involuntary treatment evaluation, the person must be examined by a designated crisis responder, rather than a mental health professional. When the officer takes the person to a crisis stabilization unit or triage facility, the person may be examined by either a mental health professional or a substance use disorder professional. In addition to existing referral options, the officer may refer the individual to youth, adult, or geriatric mobile crisis response services, as appropriate, or to an available on-demand provider responsible to receive referrals in lieu of legal system involvement.

The local law enforcement diversion guidelines must take into account the substance use disorder history of the individual and the opinions of a substance use disorder professional, if available. Protocols following violation of an agreement to participate in treatment in place of arrest are changed in several ways, including conditioning the provider's requirement to report a violation to law enforcement upon such referral being consistent with the terms of the program and applicable law, and stating that the case may proceed accordingly unless filing or referring charges is inconsistent with the program.

Basic Law Enforcement Training.
Beginning July 1, 2022, as part of basic law enforcement training, all law enforcement personnel must receive training on law enforcement interaction with persons with substance use disorders, including referral to treatment and recovery services. The training must also be made available to law enforcement agencies, through electronic means, for use at their convenience for internal training.

The training must be developed by the University of Washington Behavioral Health Institute (Institute) in collaboration with the Criminal Justice Training Commission and agencies that have expertise working with persons with substance use disorders. The Institute must also examine existing courses that relate to persons with a substance use disorder, and should draw on existing training partnerships with the Washington Association of Sheriffs and Police Chiefs.

The training must replicate field situations as much as possible and must include core instruction in:

- proper procedures for referring persons to the recovery navigator program;
- the etiology of substance use disorders, including the role of trauma;
- barriers to treatment engagement experienced by many with such disorders who have contact with the legal system;
- how to identify indicators of substance use disorder and respond appropriately;
- conflict resolution and de-escalation techniques for potentially dangerous situations involving persons with a substance use disorder;
- appropriate language usage when interacting with persons with a substance use disorder;
- alternatives to lethal force when interacting with potentially dangerous persons with a substance use disorder;
- principles of recovery and the multiple pathways to recovery; and
- community and state resources available to serve persons with substance use disorders.

Court Commissioner Authority Over *State v. Blake*-Related Hearings.
In addition to the purposes authorized in current law, criminal commissioners appointed by superior courts may conduct resentencing hearings and vacate convictions related to the *State v. Blake* decision. Superior courts may appoint criminal commissioners for this purpose regardless of the population of the county served by the court.

Release from Confinement.
An offender may be released from confinement if he or she is entitled to vacation of a conviction or the recalculation of his or her offender score pursuant to *State v. Blake* if the offender has already served a period of confinement that exceeds his or her new standard range. This provision is deemed not to create a right to release from confinement prior to resentencing.

State v. Blake Reimbursement Account.
The *State v. Blake* reimbursement account is created. Proceeds from all infractions created in the bill must be deposited into the account. Expenditures from the account may be used only for state and local government costs resulting from the *State v. Blake* decision and to reimburse individuals for legal financial obligations paid in connection with sentences that have been invalidated as a result of the decision.

Amended Bill Compared to Engrossed Bill:

The following changes are made to the underlying bill:

Provisions are added requiring basic law enforcement training to include training on interactions with persons with substance use disorders. Until July 1, 2023, criminal penalties for possession of a controlled substance or counterfeit substance are reclassified to a misdemeanor (rather than a felony in current law or a gross misdemeanor in the underlying bill). The provisions containing criminal penalties for possession of a controlled substance, possession of a counterfeit substance, and possession of a legend drug are expired on July 1, 2023, and are replaced with provisions establishing a class 2 civil infraction for such violations. The law enforcement officer issuing an infraction must refer the person to a recovery navigator program for evaluation and services. The person may avoid the $125 infraction fine if they receive an assessment by the program within 30 days. Funds collected through infraction fines must be deposited into the *State v. Blake* Reimbursement Account.

Persons with substance use disorder and references to relevant professionals are included in the provisions authorizing alternatives to arrest for persons with mental health disorders. Additional changes and alternatives to arrest are added, including referral to mobile crisis response services and referral to the regional entity responsible for receiving referrals in lieu of legal system involvement.

The Health Care Authority (HCA) must establish the Substance Use Recovery Services Advisory Committee (advisory committee) and to collaborate with the advisory committee to adopt a substance use recovery services plan (plan) to implement measures to assist persons with substance use disorders in accessing outreach, treatment, and recovery support services. The HCA must submit the plan to the Governor and the Legislature by December 1, 2021, and implement the plan by December 1, 2022.

Each behavioral health administrative services organization (BHASO) must establish a recovery navigator program to provide community-based outreach, intake, assessment, referral, and long-term intensive case management services to youth and adults with substance use disorders who are referred to the program from various sources. The HCA must provide funding to the BHASOs to establish their programs. Each BHASO must hire a substance use disorder regional administrator for its recovery navigator program.

The HCA must establish a grant program to provide treatment services for low-income individuals with substance use disorders who are not eligible for medical assistance programs and to provide treatment services that are not eligible for federal matching funds to individuals enrolled in medical assistance programs. The HCA, in consultation with others, must adopt regional standards under the program to provide access to meet regional needs for opioid treatment programs, low-barrier buprenorphine clinics, outpatient substance use disorder treatment, withdrawal management services, secure withdrawal management and stabilization services, inpatient substance use disorder treatment services, inpatient co-occurring disorder treatment services, and behavioral health crisis walk-in and drop-off services.

The HCA must establish the Expanded Recovery Support Services Program to fund increased access to recovery services for youth and adults in recovery from substance use disorder. The HCA, in consultation with others, must adopt regional expanded recovery plans to provide access to meet the regional needs for recovery housing, employment services, recovery coaching and substance use disorder peer support, social connectedness initiatives, family support services, technology-based recovery support services, transportation assistance, and legal support services.

Additionally, the HCA must:

- establish a homeless outreach stabilization transition program to expand access to modified assertive community treatment services;
- establish a project for psychiatric outreach to the homeless program to expand access to behavioral health medical services for people who are experiencing homelessness and living in permanent supportive housing;
- increase contingency management resources for opioid treatment networks that serve people with co-occurring stimulant use and opioid disorders;
- administer a competitive grant process to broaden existing local community coalition efforts to prevent substance misuse by increasing protective factors and decreasing risk factors; and
- develop a plan for implementing a comprehensive substance misuse prevention effort by January 1, 2022.

Intent language is removed, a severability clause is added, and technical changes are made.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Sections 1 through 10, 12, 18, 19, 21 through 24, and 26, relating to changes to the behavioral health system, criminal offenses related to drug possession and paraphernalia, alternatives to arrest, court commissioners, release from

confinement, and creation of the State v. Blake account, are subject to an emergency clause and take effect immediately. Section 11, relating to possession of legend drugs, due to a delayed effective date in prior legislation takes effect July 1, 2022. Sections 13 through 17, 20, and 25, relating to changing the penalty for drug possession to an infraction, take effect July 1, 2023.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) The current bill draft maintains criminalizing drug possession and there is no need to criminalized drug crimes as society has shown that both criminalization and jailing have led to today's addiction problems. In addition, law enforcement officers do not know the difference between a felony and a misdemeanor offense and will continue to have negative interactions with people.

The medical and religious use of certain drugs has been shown to be helpful to drug addiction. The United States Supreme Court has already ruled that religious protections for some drugs are valid and therefore, it may be beneficial for Washington to include religious protections such as those in law rather than having to come back to relitigate them in the future.

Lastly, it is recommended that an inclusive workgroup be developed to: (1) focus on behavioral health treatment; (2) establish personal use amounts of drug possession; (3) establish an outcome that ensures the least amount of law enforcement contact for certain incidents; and (4) make drug possession an infraction instead of a misdemeanor offense. It is believed that under the bill as written that the people who need the most help will be the most harmed.

(Other) Washington's cities and towns play an essential role in keeping citizens safe, but substance abuse has impacted many communities throughout the state. Washington must make investments that provide more pathways into treatment programs. Science and evidence have shown that incarcerating people for substance abuse disorders does not help and can make situations worse. This bill provides significant investments in treatment however it also creates additional costs and burdens to cities. Currently, municipal and district courts do not have a diversion system and are not set up to act as therapeutic courts. As a result, it is suggested that the increased impacts upon the municipal court system be taken into consideration and fully funded. Other options for consideration include possibly expanding the use of drug courts for serious drug issues or extending the jurisdiction of superior courts until such time municipal courts can develop the expertise, adequate infrastructure, and get the necessary resources deployed to handle this new misdemeanor population.

Simple drug possession should be handled as a public health problem and not as a legal

problem. Although some individuals may need treatment many do not. The bill should be revised to allow personalized action in order to ensure treatment placement is available for those individuals that need it. In addition, it is recommended that the bill is amended to require the Health Care Authority to: (1) develop a comprehensive statewide prevention plan; and (2) administer local community coalition prevention grants. Treatment is not an intervention, but a service provided after the fact when a person and their family has already suffered from the results of addiction. This Legislature must ensure that prevention, intervention, and recovery services are available in communities, and that law enforcement officers are empowered to make meaningful responses to the presence of controlled substances in our communities.

It is appreciated that a uniform drug policy has been crafted for the state; however, criminalizing drug possession by young people is likely to be applied in a racially skewed way. It is recommended that criminal penalties not be reinstituted for young people. However, to the extent that drug possession remains a crime, the diversion language in the bill needs to be adjusted to allow for pre-booking diversion to help alleviate some of the court costs and capacity concerns. In addition, like the felony driving under the influence statutes, it is recommended that a progression of measures for drug crimes be made resulting in possible fourth and subsequent offenses being penalized as felony offenses. Lastly, it is imperative that the state provides sufficient funding to respond to the *State v. Blake* decision for not only court costs but to also help in providing legal financial obligation refunds.

Persons Testifying: (Opposed) Riall Johnson, Snohomish County Ebony Political Action Committee; David Heldreth; and Teri Rogers Kemp, Washington Defenders Association and Washington Association of Criminal Defense Lawyers.
(Other) Sharon Swanson, Association of Washington Cities; James McMahan, Washington Association of Sheriffs & Police Chiefs; Seth Dawson, Washington Associaton for Substance Abuse & Violence Prevention; Dana Ralph, City of Kent; Bill Fosbre, City of Tacoma; Anne Anderson, Washington State Narcotics Investigators Association; Angela Birney, City of Redmond; Heidi Wachter, City of Lakewood; Bob Cooper, Washington Association of Drug Courts; Linda Thompson, Greater Spokane Substance Abuse Council; Russell Brown, Washington Association of Prosecuting Attorneys; Lisa Daugaard, Public Defender Association and Care First Coalition; Juliana Roe, Washington State Association of Counties; Brian Luedtke, Washington State Narcotics Investigators Association; Breean Beggs, Spokane City Council; and Robert Wardell, Self Advocates in Leadership.

Persons Signed In To Testify But Not Testifying: None.