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**HOUSE BILL 1892**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Representatives Rule, Shewmake, and Pollet

Read first time 01/11/22. Referred to Committee on Public Safety.

1 AN ACT Relating to establishing a statewide database for tracking  
2 diversions offered by law enforcement to individuals using or  
3 possessing controlled substances, counterfeit substances, and legend  
4 drugs; amending RCW 10.31.115; and adding a new section to chapter  
5 41.05 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.05  
8 RCW to read as follows:

9 (1) Subject to the availability of funds appropriated for this  
10 purpose, the Washington state health care authority shall develop,  
11 implement, and maintain a statewide drug diversion database  
12 accessible to all state law enforcement agencies and officers;  
13 superior, district, and municipal courts; and county prosecutors and  
14 city attorneys.

15 (2) The database shall be a centralized, uniform, searchable, and  
16 computerized database that contains all required reports by law  
17 enforcement agencies and officers in the state related to incidents  
18 where an agency or officer refers an individual to assessment and  
19 services pursuant to RCW 10.31.115.

20 (3) Each agency's or officer's report required pursuant to RCW  
21 10.31.115 shall contain the following information:

1 (a) The date, time, and location of the incident that resulted in  
2 a diversion being issued;

3 (b) The name of the law enforcement agency and officer that  
4 issued the diversion;

5 (c) A physical description of the individual involved in the  
6 incident;

7 (d) The name and date of birth of the individual involved in the  
8 incident, if known;

9 (e) The criminal violation that the individual is alleged to have  
10 committed;

11 (f) Whether any substances the individual possessed were field  
12 tested or submitted to a crime laboratory; and

13 (g) A summary of the diversion information provided by the  
14 involved law enforcement agency or officer to the involved  
15 individual, subject to the following:

16 (i) The summary must include, if applicable, the name of the  
17 program or entity that the individual was referred to for assessment  
18 and services; and

19 (ii) If no program or entity was available to refer the  
20 individual to for an assessment, the summary must describe the  
21 information provided to the individual to comply with the diversion.

22 (4) For the purposes of this section:

23 (a) "Individual" means a person who would be subject to arrest  
24 for possession of a counterfeit substance under RCW 69.50.4011,  
25 possession of a controlled substance under RCW 69.50.4013, possession  
26 of 40 grams or less of marijuana under RCW 69.50.4014, or possession  
27 of a legend drug under RCW 69.41.030(2)(b).

28 (b) "Law enforcement agency" or "agency" means any general  
29 authority Washington law enforcement agency and limited authority  
30 Washington law enforcement agency as those terms are defined in RCW  
31 10.93.020.

32 (c) "Law enforcement officer" or "officer" means any general  
33 authority Washington peace officer and limited authority Washington  
34 peace officer as those terms are defined in RCW 10.93.020.

35 **Sec. 2.** RCW 10.31.115 and 2021 c 311 s 13 are each amended to  
36 read as follows:

37 (1) For all individuals who otherwise would be subject to arrest  
38 for possession of a counterfeit substance under RCW 69.50.4011,  
39 possession of a controlled substance under RCW 69.50.4013, possession

1 of 40 grams or less of marijuana under RCW 69.50.4014, or possession  
2 of a legend drug under RCW 69.41.030(2)(b), in lieu of jail booking  
3 and referral to the prosecutor, law enforcement shall offer a  
4 referral to assessment and services available pursuant to RCW  
5 10.31.110 or other program or entity responsible for receiving  
6 referrals in lieu of legal system involvement, which may include the  
7 recovery navigator program established under RCW 71.24.115. When an  
8 incident results in a referral pursuant to this section, the involved  
9 law enforcement agency or officer shall file a report in the  
10 statewide drug diversion database pursuant to section 1 of this act.

11 (2) If (~~law enforcement agency~~) records from the statewide drug  
12 diversion database pursuant to section 1 of this act reflect that an  
13 individual has been diverted to referral for assessment and services  
14 twice or more previously, officers may, but are not required to, make  
15 additional diversion efforts.

16 (3) Nothing in this section precludes prosecutors from diverting  
17 or declining to file any charges for possession offenses that are  
18 referred under RCW 69.50.4011, 69.50.4013, 69.50.4014, or  
19 69.41.030(2)(b) in the exercise of their discretion.

20 (4) All records from the statewide drug diversion database and  
21 the information contained therein are confidential and may be  
22 released to the public only when that information could not  
23 reasonably be expected to identify the subject of a diversion, unless  
24 for the purpose described in subsection (6) of this section.

25 (5) All records from the statewide drug diversion database and  
26 the information contained therein are not subject to disclosure  
27 pursuant to the Washington public records act under chapter 42.56  
28 RCW.

29 (6) The court and prosecuting authority may establish and  
30 maintain a central recordkeeping system which may receive information  
31 on an individual who is the subject of a report in the statewide drug  
32 diversion database, whether or not a case is currently pending before  
33 the court. However, a diversion shall not be reported as a part of  
34 the individual's criminal history.

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