
SENATE BILL 5976

State of Washington

67th Legislature

2022 Regular Session

By Senator Salomon

Read first time 02/12/22. Referred to Committee on Law & Justice.

1 AN ACT Relating to intervention for substance use disorders;
2 amending RCW 10.31.115, 69.50.4011, 69.50.4013, 69.50.4014,
3 69.41.030, and 69.50.412; adding a new section to chapter 69.50 RCW;
4 prescribing penalties; and providing expiration dates.

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

6 **Sec. 1.** RCW 10.31.115 and 2021 c 311 s 13 are each amended to
7 read as follows:

8 (1) For all individuals who otherwise would be subject to arrest
9 for possession of a counterfeit substance under RCW 69.50.4011,
10 possession of a controlled substance under RCW 69.50.4013, possession
11 of 40 grams or less of marijuana under RCW 69.50.4014, or possession
12 of a legend drug under RCW 69.41.030(2)(b), in lieu of jail booking
13 and referral to the prosecutor, law enforcement shall offer a
14 referral to assessment and services available pursuant to RCW
15 10.31.110 or other program or entity responsible for receiving
16 referrals in lieu of legal system involvement, which may include the
17 recovery navigator program established under RCW 71.24.115.

18 (2) If law enforcement agency records reflect that an individual
19 has been diverted to referral for assessment and services (~~twice~~)
20 once or more previously, or if no statewide database of records for
21 referral is available, officers (~~may, but are not required to, make~~

1 ~~additional diversion efforts))~~ shall refer the individual to the
2 prosecutor for the filing of a petition for substance use disorder
3 intervention or prosecution of the offense.

4 ~~((3) Nothing in this section precludes prosecutors from~~
5 ~~diverting or declining to file any charges for possession offenses~~
6 ~~that are referred under RCW 69.50.4011, 69.50.4013, 69.50.4014, or~~
7 ~~69.41.030(2)(b) in the exercise of their discretion.))~~

8 **Sec. 2.** RCW 69.50.4011 and 2021 c 311 s 8 are each amended to
9 read as follows:

10 (1) Except as authorized by this chapter, it is unlawful for:

- 11 (a) Any person to create or deliver a counterfeit substance; or
12 (b) Any person to knowingly possess a counterfeit substance.

13 (2) Any person who violates subsection (1)(a) of this section
14 with respect to:

15 (a) A counterfeit substance classified in Schedule I or II which
16 is a narcotic drug, or flunitrazepam classified in Schedule IV, is
17 guilty of a class B felony and upon conviction may be imprisoned for
18 not more than ~~((ten))~~ 10 years, fined not more than ~~((twenty-five~~
19 ~~thousand dollars))~~ \$25,000, or both;

20 (b) A counterfeit substance which is methamphetamine, is guilty
21 of a class B felony and upon conviction may be imprisoned for not
22 more than ~~((ten))~~ 10 years, fined not more than ~~((twenty-five~~
23 ~~thousand dollars))~~ \$25,000, or both;

24 (c) Any other counterfeit substance classified in Schedule I, II,
25 or III, is guilty of a class C felony punishable according to chapter
26 9A.20 RCW;

27 (d) A counterfeit substance classified in Schedule IV, except
28 flunitrazepam, is guilty of a class C felony punishable according to
29 chapter 9A.20 RCW;

30 (e) A counterfeit substance classified in Schedule V, is guilty
31 of a class C felony punishable according to chapter 9A.20 RCW.

32 ~~((A violation of))~~ When a person violates subsection (1)(b)
33 of this section ~~((is a misdemeanor. The)),~~ the prosecutor ~~((is~~
34 ~~encouraged to divert such cases for assessment, treatment, or other~~
35 ~~services))~~ shall file a petition for substance use disorder
36 intervention as provided in section 7 of this act.

37 **Sec. 3.** RCW 69.50.4013 and 2021 c 311 s 9 are each amended to
38 read as follows:

1 (1) It is unlawful for any person to knowingly possess a
2 controlled substance unless the substance was obtained directly from,
3 or pursuant to, a valid prescription or order of a practitioner while
4 acting in the course of his or her professional practice, or except
5 as otherwise authorized by this chapter.

6 (2) Except as provided in RCW 69.50.4014, (~~any person who~~
7 ~~violates this section is guilty of a misdemeanor~~) when a person
8 violates this section, the prosecutor shall file a petition for
9 substance use disorder intervention as provided in section 7 of this
10 act.

11 (~~The prosecutor is encouraged to divert cases under this~~
12 ~~section for assessment, treatment, or other services.~~

13 ~~(4))~~ (a) The possession, by a person (~~twenty-one~~) 21 years of
14 age or older, of useable marijuana, marijuana concentrates, or
15 marijuana-infused products in amounts that do not exceed those set
16 forth in RCW 69.50.360(3) is not a violation of this section, this
17 chapter, or any other provision of Washington state law.

18 (b) The possession of marijuana, useable marijuana, marijuana
19 concentrates, and marijuana-infused products being physically
20 transported or delivered within the state, in amounts not exceeding
21 those that may be established under RCW 69.50.385(3), by a licensed
22 employee of a common carrier when performing the duties authorized in
23 accordance with RCW 69.50.382 and 69.50.385, is not a violation of
24 this section, this chapter, or any other provision of Washington
25 state law.

26 (~~(5))~~ (4) (a) The delivery by a person (~~twenty-one~~) 21 years
27 of age or older to one or more persons (~~twenty-one~~) 21 years of age
28 or older, during a single (~~twenty-four~~) 24-hour period, for
29 noncommercial purposes and not conditioned upon or done in connection
30 with the provision or receipt of financial consideration, of any of
31 the following marijuana products, is not a violation of this section,
32 this chapter, or any other provisions of Washington state law:

- 33 (i) One-half ounce of useable marijuana;
34 (ii) Eight ounces of marijuana-infused product in solid form;
35 (iii) Thirty-six ounces of marijuana-infused product in liquid
36 form; or
37 (iv) Three and one-half grams of marijuana concentrates.

38 (b) The act of delivering marijuana or a marijuana product as
39 authorized under this subsection (~~(5))~~ (4) must meet one of the
40 following requirements:

1 (i) The delivery must be done in a location outside of the view
2 of general public and in a nonpublic place; or

3 (ii) The marijuana or marijuana product must be in the original
4 packaging as purchased from the marijuana retailer.

5 ~~((+6))~~ (5) No person under ~~((twenty-one))~~ 21 years of age may
6 possess, manufacture, sell, or distribute marijuana, marijuana-
7 infused products, or marijuana concentrates, regardless of THC
8 concentration. This does not include qualifying patients with a valid
9 authorization.

10 ~~((+7))~~ (6) The possession by a qualifying patient or designated
11 provider of marijuana concentrates, useable marijuana, marijuana-
12 infused products, or plants in accordance with chapter 69.51A RCW is
13 not a violation of this section, this chapter, or any other provision
14 of Washington state law.

15 **Sec. 4.** RCW 69.50.4014 and 2021 c 311 s 10 are each amended to
16 read as follows:

17 (1) Except as provided in RCW 69.50.401(2)(c) or as otherwise
18 authorized by this chapter, ~~((any person found guilty of knowing
19 possession of forty))~~ it is unlawful for a person to possess 40 grams
20 or less of marijuana ~~((is guilty of a misdemeanor. The prosecutor is
21 encouraged to divert cases under this section for assessment,
22 treatment, or other services))~~.

23 (2) When a person violates this section, the prosecutor shall
24 file a petition for substance use disorder intervention as provided
25 in section 7 of this act.

26 **Sec. 5.** RCW 69.41.030 and 2021 c 311 s 11 are each amended to
27 read as follows:

28 (1) It shall be unlawful for any person to sell, deliver, or
29 knowingly possess any legend drug except upon the order or
30 prescription of a physician under chapter 18.71 RCW, an osteopathic
31 physician and surgeon under chapter 18.57 RCW, an optometrist
32 licensed under chapter 18.53 RCW who is certified by the optometry
33 board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a
34 podiatric physician and surgeon under chapter 18.22 RCW, a
35 veterinarian under chapter 18.92 RCW, a commissioned medical or
36 dental officer in the United States armed forces or public health
37 service in the discharge of his or her official duties, a duly
38 licensed physician or dentist employed by the veterans administration

1 in the discharge of his or her official duties, a registered nurse or
2 advanced registered nurse practitioner under chapter 18.79 RCW when
3 authorized by the nursing care quality assurance commission, a
4 pharmacist licensed under chapter 18.64 RCW to the extent permitted
5 by drug therapy guidelines or protocols established under RCW
6 18.64.011 and authorized by the commission and approved by a
7 practitioner authorized to prescribe drugs, an osteopathic physician
8 assistant under chapter 18.57A RCW when authorized by the board of
9 osteopathic medicine and surgery, a physician assistant under chapter
10 18.71A RCW when authorized by the Washington medical commission, or
11 any of the following professionals in any province of Canada that
12 shares a common border with the state of Washington or in any state
13 of the United States: A physician licensed to practice medicine and
14 surgery or a physician licensed to practice osteopathic medicine and
15 surgery, a dentist licensed to practice dentistry, a podiatric
16 physician and surgeon licensed to practice podiatric medicine and
17 surgery, a licensed advanced registered nurse practitioner, a
18 licensed physician assistant, a licensed osteopathic physician
19 assistant, or a veterinarian licensed to practice veterinary
20 medicine: PROVIDED, HOWEVER, That the above provisions shall not
21 apply to sale, delivery, or possession by drug wholesalers or drug
22 manufacturers, or their agents or employees, or to any practitioner
23 acting within the scope of his or her license, or to a common or
24 contract carrier or warehouse operator, or any employee thereof,
25 whose possession of any legend drug is in the usual course of
26 business or employment: PROVIDED FURTHER, That nothing in this
27 chapter or chapter 18.64 RCW shall prevent a family planning clinic
28 that is under contract with the health care authority from selling,
29 delivering, possessing, and dispensing commercially prepackaged oral
30 contraceptives prescribed by authorized, licensed health care
31 practitioners: PROVIDED FURTHER, That nothing in this chapter
32 prohibits possession or delivery of legend drugs by an authorized
33 collector or other person participating in the operation of a drug
34 take-back program authorized in chapter 69.48 RCW.

35 (2) (a) A violation of this section involving the sale, delivery,
36 or possession with intent to sell or deliver is a class B felony
37 punishable according to chapter 9A.20 RCW.

38 (b) (~~(A violation of this section involving possession is a~~
39 ~~misdemeanor. The prosecutor is encouraged to divert such cases for~~
40 ~~assessment, treatment, or other services.)~~) When a person commits a

1 violation of this section involving possession, the prosecutor shall
2 file a petition for substance use disorder intervention as provided
3 in section 7 of this act.

4 **Sec. 6.** RCW 69.50.412 and 2021 c 311 s 14 are each amended to
5 read as follows:

6 (1) It is unlawful for any person to use drug paraphernalia to
7 plant, propagate, cultivate, grow, harvest, manufacture, compound,
8 convert, produce, process, or prepare a controlled substance other
9 than marijuana. Any person who violates this subsection is guilty of
10 a misdemeanor.

11 (2) It is unlawful for any person to deliver, possess with intent
12 to deliver, or manufacture with intent to deliver drug paraphernalia,
13 knowing, or under circumstances where one reasonably should know,
14 that it will be used to plant, propagate, cultivate, grow, harvest,
15 manufacture, compound, convert, produce, process, or prepare a
16 controlled substance other than marijuana. Any person who violates
17 this subsection is guilty of a misdemeanor.

18 (3) Any person eighteen years of age or over who violates
19 subsection (2) of this section by delivering drug paraphernalia to a
20 person under (~~eighteen~~) 18 years of age who is at least three years
21 his or her junior is guilty of a gross misdemeanor.

22 (4) It is unlawful for any person to place in any newspaper,
23 magazine, handbill, or other publication any advertisement, knowing,
24 or under circumstances where one reasonably should know, that the
25 purpose of the advertisement, in whole or in part, is to promote the
26 sale of objects designed or intended for use as drug paraphernalia.
27 Any person who violates this subsection is guilty of a misdemeanor.

28 (5) It is unlawful for any person to use drug paraphernalia to
29 test, analyze, pack, repack, store, contain, conceal, inject, ingest,
30 inhale, or otherwise introduce into the human body a controlled
31 substance other than marijuana. When a person commits a violation of
32 this subsection, the prosecutor may file a petition for substance use
33 disorder intervention as provided in section 7 of this act. A
34 person's third violation of this subsection may be filed as a
35 misdemeanor.

36 (6) It is lawful for any person over the age of eighteen to
37 possess sterile hypodermic syringes and needles for the purpose of
38 reducing blood-borne diseases.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 69.50

2 RCW to read as follows:

3 (1) On a person's first or second violation of RCW 69.50.4011,
4 69.50.4013, 69.50.4014, or 69.41.030, the prosecutor may file a
5 petition in district or municipal court for substance use disorder
6 intervention.

7 (2) A petition for substance use disorder intervention shall
8 consist of a written notification to the court alleging that the
9 individual has one or more violations for possession of a controlled
10 substance; the person is believed to have a substance use disorder;
11 actions taken so far have been unsuccessful in addressing the
12 individual's substance use disorder; and court intervention and
13 supervision are necessary to assist the entity in addressing the
14 individual's substance use disorder. The petition shall set forth
15 facts that support the allegations in this section, including prior
16 referrals or violations, as well as the current violation.

17 (3) Petitions filed under this section may be served by certified
18 mail, return receipt requested. If such service is unsuccessful, or
19 the return receipt is not signed by the addressee, personal service
20 is required. A warrant to secure an appearance may be issued for
21 failure to appear after proper service is shown.

22 (4)(a) If the allegations in the petition constitute probable
23 cause to believe the person has a substance use disorder, the court
24 shall order the person to submit to a substance use disorder
25 assessment.

26 (b) An assessment shall include a description of the intervention
27 and prevention efforts to be employed to address the person's
28 substance use disorder and a timeline for completion.

29 (c) If the person does not cooperate with the substance use
30 disorder assessment, the court may issue a bench warrant to compel
31 the person's appearance.

32 (5) The court shall set a hearing for a determination as to
33 whether the person has a substance use disorder. If the allegations
34 in the petition are established by a preponderance of the evidence,
35 the court shall grant the petition and enter an order assuming
36 jurisdiction and entering an individualized action plan for a period
37 of one year.

38 (6) If the court assumes jurisdiction, the prosecutor shall
39 periodically report to the court on the progress of the individual.

1 The first report must be received no later than three months from the
2 date the court assumes jurisdiction.

3 (7) Failure to comply with an individualized action plan may be
4 considered contempt of court. In addition to other sanctions, the
5 court may sanction the person with up to seven days in confinement
6 per calendar month.

7 (8) The person shall pay the cost of any assessment and treatment
8 ordered under this section unless the court finds that the person is
9 indigent and no third-party insurance coverage is available, in which
10 case the state shall pay the cost.

11 (9) Nothing in this section shall be construed to limit the
12 court's inherent contempt power or curtail its exercise.

13 NEW SECTION. **Sec. 8.** Sections 2 through 4 of this act expire
14 July 1, 2023.

15 NEW SECTION. **Sec. 9.** Section 5 of this act expires July 1,
16 2022.

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