

HOUSE BILL REPORT

E2SSB 5536

As Passed House - Amended:

April 11, 2023

Title: An act relating to justice system and behavioral health responses for persons experiencing circumstances that involve controlled substances, counterfeit substances, legend drugs, and drug paraphernalia.

Brief Description: Concerning controlled substances, counterfeit substances, and legend drug possession and treatment.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Robinson, Lovick, Rolfes, Mullet, Dhingra, Billig, Hasegawa, Keiser, Kuderer, Lias, Lovelett, Nobles, Randall, Stanford, Wellman and Wilson, C.).

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 3/20/23, 3/28/23 [DPA];

Appropriations: 4/1/23, 4/4/23 [DPA(APP w/o CSJR)].

Floor Activity:

Passed House: 4/11/23, 54-41.

Brief Summary of Engrossed Second Substitute Bill (As Amended by House)

- Modifies certain regulations and prohibitions under the Uniform Controlled Substances Act and related provisions of state law, including by modifying the conduct that constitutes certain drug possession offenses and the related penalties, and establishing that the knowing possession and use of a controlled substance, counterfeit substance, or legend drug in a public place constitutes a misdemeanor.
- Modifies the scope of the civil infraction for giving, selling, or permitting the giving or selling of drug paraphernalia, and establishes the state's preemption of the entire field of drug paraphernalia regulation.

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.

- Establishes a pretrial diversion opportunity for persons charged with qualifying drug possession offenses.
- Requires the court to suspend a person's sentence for a conviction of a qualifying drug possession offense when the person agrees as a condition of probation to obtain a biopsychosocial assessment and participate in recommended treatment or services, or court-ordered community restitution.
- Requires the court to dismiss a defendant's charge for a qualifying drug possession offense if the defendant successfully completes pretrial diversion, and vacate a person's conviction for a qualifying drug possession offense if the person substantially complies with recommended treatment or services for six months or completes court-order community restitution as an agreed condition of probation.
- Requires the court to vacate a person's conviction for a qualifying drug possession offense if the person has no additional arrests, charges, or convictions in the two years after the person's present conviction.
- Repeals the provision requiring law enforcement to offer a person who would otherwise be subject to arrest for qualifying drug possession offenses two referrals to assessment and services in lieu of legal system involvement prior to booking the person into jail and referring the case for prosecution.
- Requires the Washington State Patrol, beginning January 1, 2025, to aim to complete the necessary analysis for evidence submitted for suspected violations of certain drug possession offenses within 45 days of receiving the request for analysis.
- Requires the Administrative Office of the Courts to collect data and submit reports to the Legislature regarding the utilization and outcomes of specific forms of pretrial diversion, sentencing, and postconviction relief.
- Establishes new programs and services and modifies the scope of existing programs and services related to substance use disorder treatment and recovery.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass as amended. Signed by 6 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Davis, Fosse and Ramos.

Minority Report: Do not pass. Signed by 3 members: Representatives Griffey, Assistant Ranking Minority Member; Farivar and Graham.

Staff: Corey Patton (786-7388).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Community Safety, Justice, & Reentry. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Chopp, Davis, Fitzgibbon, Hansen, Lekanoff, Pollet, Riccelli, Ryu, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 11 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler, Connors, Couture, Dye, Harris, Sandlin, Schmick and Steele.

Minority Report: Without recommendation. Signed by 1 member: Representative Rude.

Staff: Yvonne Walker (786-7841).

Background:

The Uniform Controlled Substances Act and Related Provisions.

The Uniform Controlled Substances Act (UCSA) regulates the manufacture, distribution, and dispensation of controlled substances, including by prohibiting and penalizing certain conduct related to controlled substances, counterfeit substances, and drug paraphernalia. Related provisions of state law also regulate legend drugs. For example, the following actions constitute either a criminal offense or civil infraction and carry specified penalties depending on the nature of the offense or infraction, subject to certain exceptions:

- Until July 1, 2023, knowingly possessing a controlled substance, counterfeit substance, legend drug, or certain quantities of cannabis constitutes a misdemeanor offense, which is punishable by up to 90 days in jail, a \$1,000 fine, or both. Prosecutors are encouraged to divert related cases for assessment, treatment, or other services.
- Giving, selling, or permitting the giving or selling of drug paraphernalia constitutes a class I civil infraction, which is punishable by up to a \$250 fine.

The first two times a person would otherwise be subject to arrest for certain drug possession offenses, law enforcement is required to offer the person a referral to assessment and services in lieu of legal system involvement. If law enforcement agency records reflect that the person has been referred to assessment and services twice or more, officers may, but are not required to, make additional diversion efforts.

A "controlled substance" is a drug or substance included in Schedules I through V of the UCSA, 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. "Drug paraphernalia" includes all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing a controlled substance into the human body. A "legend drug" is a drug which is required to be dispensed on prescription or is restricted to use by practitioners.

State v. Blake.

Prior to 2021, the offense of Possession of a Controlled Substance under the UCSA was classified as a class C felony and was a strict liability offense, meaning that no *mens rea* (state of mind) element had to be proven to convict a person of the offense. In 2021 the Washington Supreme Court held in *State v. Blake (Blake)* that the strict liability nature of the offense exceeded the state's police power and violated the due process clauses of the state and federal constitutions. Consequently, the Washington Supreme Court's decision in *Blake* invalidated the portion of the UCSA that created the offense of Possession of a Controlled Substance.

Following the *Blake* decision, legislation was adopted in 2021 (Engrossed Senate Bill 5476, enacted as chapter 311, Laws of 2021) which, in part, amended statutory provisions related to the offenses of Possession of a Controlled Substance, Possession of a Counterfeit Substance, Possession of a Legend Drug, and Possession of 40 Grams or Less of Cannabis in the following ways:

- added a "knowing" *mens rea* element to all four offenses, which were previously strict liability offenses;
- reclassified Possession of a Controlled Substance and Possession of a Counterfeit Substance as misdemeanors, which were previously classified as class C or B felonies;
- encouraged prosecutors to divert related cases for assessment, treatment, or other services; and
- provided that these amendatory provisions expire on July 1, 2023, at which point the affected statutes will revert back to their pre-*Blake* provisions.

The Growth Management Act and Essential Public Facilities.

The Growth Management Act (GMA) provides a comprehensive land-use-planning framework for county and city governments in Washington. Under the GMA, comprehensive land-use plans must include a process for identifying and siting essential

public facilities, which are facilities that are typically difficult to site, such as airports, state education facilities, state or regional transportation facilities, regional transit authority facilities, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, community facilities, and secure community transition facilities.

Recovery Residences.

State law requires the Health Care Authority (HCA) to maintain a registry of approved recovery residences or contract with a nationally recognized recovery residence certification organization based in Washington to maintain the registry. A "recovery residence" is a home-like environment that promotes healthy recovery from substance use disorders (SUD) and supports persons recovering from SUDs through the use of peer recovery support. A recovery residence may choose to be included in the registry if it has been certified as meeting certain criteria.

Law Enforcement Assisted Diversion.

Law enforcement assisted diversion (LEAD) is a community-based diversion approach with the stated goals of improving public safety and public order and reducing unnecessary justice system involvement for participants. In 2019 the state established a LEAD pilot project and directed the HCA to partner with the LEAD National Support Bureau to award a contract for two or more geographic areas to implement LEAD programs in Washington.

Recovery Navigator Programs.

The recovery navigator programs are statewide programs involving a partnership between the HCA and behavioral health administrative service organizations to provide community-based outreach, intake, assessment, and connection to services for individuals with SUDs, including individuals with co-occurring SUDs and mental health conditions.

Summary of Amended Bill:

Drug Possession.

Description of Offenses and Penalties.

The conduct that constitutes certain drug possession offenses and the related penalties are modified as follows:

- Amendatory provisions adopted in 2021 (Engrossed Senate Bill 5476, enacted as chapter 311, Laws of 2021) related to the offenses of Possession of a Counterfeit Substance, Possession of a Controlled Substance, Possession of a Legend Drug, and Possession of 40 Grams or Less of Cannabis are made permanent, retaining the "knowing" *mens rea* element and the misdemeanor penalties for those offenses; and
- The knowing possession and use of a controlled substance, counterfeit substance, or legend drug in a public place constitutes a misdemeanor offense.

Diversions by Law Enforcement.

The provision requiring law enforcement to offer a person who would otherwise be subject

to arrest for Possession of a Controlled Substance, Possession of a Counterfeit Substance, Possession of a Legend Drug, or Possession of 40 Grams or Less of Cannabis at least two referrals to assessment and services in lieu of legal system involvement is repealed. Instead, law enforcement is encouraged to offer such referrals in lieu of legal system involvement.

Pretrial Diversion Program and Dismissing Charges.

A pretrial diversion opportunity is created for defendants charged with a qualifying offense, which includes Possession of a Controlled Substance, Possession of a Counterfeit Substance, Possession of a Legend Drug, or Possession of 40 Grams or Less of Cannabis, or the knowing possession and use of a controlled substance, counterfeit substance, or legend drug in a public place.

A defendant charged with a qualifying offense may make a motion to participate in diversion and agree to waive the right to a speedy trial if the motion is granted. The prosecutor is strongly encouraged to agree to diversion if the defendant is only charged with a qualifying offense, or if the only other additional charge or charges are for other nonfelony offenses that are not crimes against persons.

If the defendant is only charged with a qualifying offense and has not been convicted of any other offenses, the court must grant the motion, continue the hearing, and refer the defendant for a biopsychosocial assessment by an applicable program, which includes a recovery navigator program (RNP), a law enforcement assisted diversion (LEAD) program, or an arrest and jail alternative program. In all other cases, granting the motion is discretionary. Prior to granting the motion, the court must provide a full description of the procedures for diversion and certain explanations and clear statements about subjects related to participating in diversion.

The applicable program must make a written report after the assessment and file the report under seal with the court, with a copy given to the prosecutor, the defendant, and the defendant's counsel. The report and its copies are confidential and exempt from public disclosure, and the court must endeavor to avoid public discussion of the circumstances, history, or diagnoses that could stigmatize the defendant.

If the report indicates the defendant has a substance use disorder (SUD), the court must inform the defendant that the defendant is prohibited under federal law from possessing any firearm or ammunition, sign an order of ineligibility to possess firearms, and require the defendant to surrender all firearms.

If the report recommends treatment or services, the defendant successfully completes diversion by having six months of substantial compliance with assessment and recommended treatment or services and progress toward recovery goals as reflected by a written status update from the applicable program. "Substantial compliance" means the defendant is actively engaging with or making himself or herself available to treatment and services. A defendant who willfully abandons treatment and services is not in substantial

compliance. Status updates must be provided at least monthly and filed under seal with the court, with copies given to the prosecutor, defendant, and defendant's counsel. The updates and their copies are confidential and exempt from disclosure, and the court must endeavor to avoid public discussion of the circumstances, history, or diagnoses that could stigmatize the defendant.

If the report does not recommend treatment or services, the defendant successfully completes diversion by completing an amount of community service hours set by the court, not to exceed 120 hours.

If the defendant successfully completes diversion, the court must dismiss the defendant's qualifying charge or charges.

The prosecutor may make a motion to terminate diversion if it appears that the defendant is not substantially complying with the recommended treatment or services, or if the defendant is not completing required community service. At the hearing on the motion to terminate diversion, the court must consider specific factors about the alleged noncompliance.

Sentencing Requirements and Vacating Convictions.

If a defendant is convicted of a qualifying offense and agrees, as a condition of probation, to obtain a biopsychosocial assessment by an applicable program and participate in any recommended treatment or services, or complete court-ordered community service if the applicable program does not recommend treatment or services, the court must impose a term of confinement of up to 90 days, all of which must be suspended for a period not to exceed two years.

The assessment prepared by the applicable program must include:

- available background on the defendant's circumstances, barriers, and past service history;
- recommendations for services available in the defendant's community that are likely to work with the defendant and provide relevant support;
- a statement of unavailability if there are no known suitable services presently available in the defendant's community that would meaningfully assist the defendant; and
- the approximate cost of the services if not publicly provided.

Based on the assessment, the court must determine whether to require the defendant to complete a course in an alcohol and drug information school licensed or certified by the Department of Health (DOH), or more sustained services provided by a licensed behavioral health care provider, peer counseling program, or other case management program.

If the assessment indicates the defendant has an SUD, the court must inform the defendant that the defendant is prohibited under federal law from possessing any firearm or ammunition, and sign an order of ineligibility to possess firearms.

The prosecutor may make a motion for a hearing to consider sanctions if it appears that the defendant is not substantially complying with the recommended treatment or services, or if the defendant is not completing required community service. At the hearing, the court must consider specific factors about the alleged noncompliance. If the court finds by clear and convincing evidence that the defendant has willfully abandoned or demonstrated a consistent failure to substantially comply with the recommended treatment or services, or is failing to complete required community service, the court must use its discretion in determining an appropriate sanction. The court may not sanction the defendant for noncompliance with the recommended treatment or services if the court finds the defendant has made reasonable efforts but cannot comply due to a lack of available treatment or services or, if the defendant is indigent, due to a lack of funding for treatment or services.

The defendant is eligible for a vacation of the defendant's conviction for a qualifying offense if the defendant meets one of the following conditions:

- if the defendant's assessment recommends treatment or services, having six months of substantial compliance with assessment and recommended treatment or services and progress toward recovery goals as reflected by a written status update from the applicable program;
- if the defendant's assessment does not recommend treatment or services, completing an amount of community service hours set by the court, not to exceed 120 hours; or
- having no additional arrests, charges, or criminal convictions in the two years after the defendant's conviction for the qualifying offense.

Analysis of Evidence.

Effective January 1, 2025, subject to the availability of funding, the Washington State Patrol (WSP) must aim to complete the necessary analysis for evidence submitted for a suspected qualifying offense within 45 days of receiving the request for analysis.

Data Collection and Reporting Requirements.

The Administrative Office of the Courts (AOC) must collect specific data related to the utilization and outcomes of pretrial diversions, convictions, and postconviction relief for qualifying offenses, including but not limited to:

- the recidivism rate for persons participating in such processes;
- the number of diversions granted and the outcomes of those diversions;
- the number of convictions for qualifying offenses;
- the number of charges for qualifying offenses involving repeat offenders;
- the number of charges for qualifying offenses involving persons who previously participated in diversion or who agreed as a condition of probation to obtain a biopsychosocial assessment and participate in treatment or services; and
- statistical data comparing sentencing for qualifying offenses in specific courts and different regions of Washington.

By January 1, 2024, the AOC must also establish and maintain a statewide pretrial diversion

tracking and reporting system. Prosecutors must input specific information in the system for each case where a defendant participates in diversion for a qualifying offense. The AOC must use the system to collect the following additional data:

- aggregated and disaggregated demographic data for diversions for qualifying offenses that identifies trends or disparities in utilization or outcomes based on race, ethnicity, gender, gender expression or identity, disability status, age, and any other appropriate characteristics; and
- statistical data comparing the relative utilization and outcomes of diversions for qualifying offenses in specific courts and different regions of Washington.

Beginning August 1, 2024, the AOC must submit an annual report to the Legislature containing the data related to the utilization and outcomes of pretrial diversions, convictions, and postconviction relief for qualifying offenses.

Drug Paraphernalia.

Effective July 1, 2023, the class I civil infraction for giving, selling, or permitting the giving or selling of drug paraphernalia is modified as follows:

- The prohibition on giving or permitting the giving of drug paraphernalia is eliminated.
- Equipment, products, and materials that are used, intended to be used, or designed for testing or analyzing a controlled substance are eliminated from the definition of "drug paraphernalia."
- The distribution or use of public health supplies including, but not limited to, syringe equipment and drug testing equipment, through public health programs, community-based human immunodeficiency virus (HIV) prevention programs, outreach, shelter, and housing programs, and pharmacies is exempt from the infraction.
- Public health and syringe service program staff taking samples of substances and using drug testing equipment for the purpose of analyzing the composition of the substances or detecting the presence of certain substances are exempt from arrest and prosecution for applicable drug offenses.

The State of Washington fully occupies and preempts the entire field of drug paraphernalia regulation within its boundaries, including regulation of the use, selling, giving, delivery, and possession of drug paraphernalia. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to drug paraphernalia that are specifically authorized by, and consistent with, state law. Such local ordinances must have the same penalty as provided by state law. Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law may not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county or municipality.

Programs and Services Related to Substance Use Disorder Treatment and Recovery.

Opioid Treatment Programs and Other Essential Public Facilities.

The list of facilities that are considered essential public facilities for the purpose of local

land-use regulations is expanded to include opioid treatment programs (OTPs), recovery residences, SUD treatment facilities, and harm reduction programs, excluding safe injection sites. Counties and cities may only impose reasonable conditional use requirements on OTPs that are similarly applied to other essential public facilities and health care settings. The requirement for the DOH to hold a public hearing before making a decision on an application for licensing or certifying an opioid treatment program is eliminated. Counties and cities are prohibited from imposing a maximum capacity on an OTP. A mobile or fixed-site medication unit may be established as part of a licensed OTP.

Law Enforcement Assisted Diversion Grant Program.

The LEAD pilot project is converted to a grant program administered by the Health Care Authority (HCA). The LEAD grant program is expanded to provide that cities, counties, and tribes; subdivisions thereof; public development authorities; and community-based organizations demonstrating support from necessary public partners, may apply for funding. Funds may be used to scale existing projects and to invite additional jurisdictions to launch diversion programs. Sufficient funds must be allocated from grant program funds to secure technical assistance for the HCA and implementing jurisdictions. Certain governmental entities and employees thereof, nonprofit community-based organizations; tribal government entities; tribal organizations; and urban Indian organizations are granted immunity from civil liability based on the administration of LEAD programs or activities, except upon proof of bad faith or gross negligence.

Program to Fund Substance Use Disorder Treatment Programs.

Subject to the availability of funding, a program is established in the Department of Commerce to fund the construction costs necessary to start up SUD treatment and services programs and recovery housing in underserved regions of the state.

Recovery Residences.

Subject to the availability of funding, the HCA must:

- make sufficient funding available to support establishment of an adequate and equitable stock of recovery residences in each region of the state;
- establish a voucher program to allow accredited recovery housing operators to hold bed space for applicable individuals;
- conduct outreach to underserved and rural areas to support the development of recovery housing, including adequate resources for certain demographics and communities; and
- by January 1, 2024, develop a training for housing providers to assist with providing appropriate service to certain communities, including consideration of specific topics, and ensure applicants for grants or loans related to recovery residences receive access to the training.

Real and personal property used by a nonprofit organization in maintaining an approved recovery residence is exempt from taxes levied for collection in calendar years 2024 through 2033 if the property is owned by the nonprofit organization and the charge for the

housing does not exceed the actual cost of operating and maintaining the housing, or if the property is rented or leased by the nonprofit organization and the benefit of the exemption inures to the nonprofit organization. A tax preference performance statement is included.

Training and Resources for Parents and Department of Children, Youth, and Families Staff.

By June 30, 2024, the HCA must, in consultation with the Department of Children, Youth, and Families (DCYF), develop training for parents of adolescents and transition age youth with SUDs. The training must address specific subjects, be made publicly available, and be promoted to licensed foster parents and caregivers, including any tribally licensed foster parents and tribal caregivers.

The DCYF must provide opioid overdose reversal medication and training in the use of such medication to all DCYF staff whose job duties require in-person service or case management for child welfare or juvenile rehabilitation clients.

Recovery Navigator Programs.

Behavioral health administrative services organizations (BHASO) must establish RNPs with the goal of providing law enforcement and other criminal legal system personnel with a credible alternative to further legal system involvement for criminal activity that stems from unmet behavioral health needs or poverty.

The scope and operations of RNPs are modified to require RNPs to:

- work to improve community health and safety by reducing individuals' involvement with the criminal legal system using specific human services tools and in coordination with community input, including a dedicated project manager and a governing policy coordinating group;
- be organized on a scale that permits meaningful engagement, collaboration, and coordination with local law enforcement and municipal agencies through the policy coordinating groups; and
- serve and prioritize individuals who are actually or potentially exposed to the criminal legal system with respect to unlawful behavior connected to substance use or other behavioral health issues.

Certain entities are exempt from civil liability for administration of an RNP, except upon proof of bad faith or gross negligence.

By December 1, 2023, the Criminal Justice Training Commission (CJTC) must, in consultation with the HCA and other key stakeholders, assess the status toward achieving statewide implementation of RNPs in fidelity with the core principles of a LEAD program, and submit a related report to the Governor and the Legislature.

By December 31, 2023, the HCA must revise its uniform program standards for the BHASOs to follow in the design of RNPs to achieve fidelity with the core principles of a LEAD program. The uniform program standards must incorporate the LEAD framework

for diversion at multiple points of engagement with the criminal legal system, including prearrest, prebooking, prefiling, and ongoing case conferencing with law enforcement, prosecutors, community stakeholders, and program case managers.

By June 30, 2024, the HCA must develop and implement a data integration platform to serve as a common database available for diversion efforts across Washington, to serve as a data collection and management tool for practitioners, and to assist in standardizing definitions and practices. If possible, the HCA must leverage and interact with existing platforms already in use. The HCA must establish a quality assurance process for the BHASOs and employ data validation for fields in the data collection workbook. The HCA must engage and consult with the LEAD National Support Bureau on data integration approaches, platforms, quality assurance protocols, and validation practices.

The HCA must contract with the Washington State Institute for Public Policy (WSIPP) to conduct a study of the long-term effectiveness of RNPs and LEAD programs, with reports due on December 31 of 2024, 2026, and 2028. The WSIPP must collaborate with the HCA and the Substance Use Recovery Services Advisory Committee to determine the parameters of the reports. The HCA may supplement the report with additional recommendations. By August 1, 2023, the HCA must establish an expedited preapproval process to facilitate certain data requests made by the WSIPP.

Health Engagement Hubs Pilot Program.

By August 1, 2024, the HCA must implement a pilot program for health engagement hubs to test their functionality and operability. Subject to the availability of funding, the HCA must establish the pilot program on at least two sites, with one site located in an urban area and one located in a rural area. The health engagements hubs are intended to:

- serve as an all-in-one location where people who use drugs can access a range of medical, harm reduction, treatment, and social services;
- be affiliated with certain existing programs and entities;
- provide referrals or access to methadone and other medications for opioid addiction;
- function as a patient-centered medical home by offering high-quality, cost-effective patient-centered care, including wound care;
- provide harm reduction services and supplies;
- provide linkage to housing, transportation, and other support services; and
- be open to youth and adults.

By August 1, 2026, the HCA must submit a report to the Legislature containing the pilot program results and related recommendations.

Education and Employment Pathways.

Subject to the availability of funding, the HCA must establish a grant program for providers of employment, education, training, certification, and other supportive programs designed to provide persons recovering from SUDs with employment and education opportunities. The grant program must employ a low-barrier application and give priority to programs that

engage with specific historically underserved communities.

Statewide Treatment and Services Mapping Tool.

Subject to the availability of funding, the HCA must collaborate with the DOH and the Department of Social and Health Services to expand the Washington Recovery Help Line and the recovery readiness asset tool to provide a dynamically updated statewide behavioral health treatment and recovery support services mapping tool that includes specific functions and interface capabilities.

Investment in Statewide Diversion Services.

Subject to the availability of funding, the HCA must:

- continue to expand efforts to provide opioid use disorder medication in city, county, regional, and tribal jails;
- provide support funds to new and established recovery support services, including clubhouses;
- award grants to an equivalent number of crisis services providers to the west and east of the Cascade Mountains to establish and expand 23-hour crisis relief center capacity;
- maintain a memorandum of understanding with the CJTC to provide ongoing funding for certain community grants related to therapeutic interventions; and
- provide ongoing grants to LEAD programs.

Work Group on Treatment Intake, Screening, and Assessments.

The HCA must convene a work group to recommend changes to systems, policies, and processes related to intake, screening, and assessment for SUD services. The work group must include care providers, payors, people who use drugs, and other individuals recommended by the HCA. The work group must present its recommendations to the Governor and the Legislature by December 1, 2024.

Remote Dispensing Sites.

Remote dispensing sites are authorized to dispense medications used for the treatment of the symptoms of opioid use disorder. The statutory requirement for such medications to be approved by the United States Food and Drug Administration is eliminated. Remote dispensing technology may be owned by either a pharmacy or a remote dispensing site.

Comprehensive Data Reporting.

The HCA must provide regular assessments of the prevalence of SUDs and the interactions of persons with SUDs with service providers, nonprofit service providers, first responders, health care facilities, and law enforcement agencies. The HCA must identify the types and sources of data necessary for such assessments and provide a preliminary inventory report to the Governor and the Legislature by December 1, 2023, and a final inventory report by December 1, 2024.

Beginning July 1, 2024, and each July 1 thereafter until July 1, 2028, the HCA must provide

an annual implementation report to the Governor and the Legislature related to recovery residences, RNPs, the health engagement hub pilot program, and the LEAD grant program. Beginning with the annual implementation report due July 1, 2027, the HCA must provide additional information related to specific programs and efforts. The data obtained by the HCA for its annual implementation reports must be integrated into the WSIPP's reports on the long-term effectiveness of RNPs and LEAD programs.

Miscellaneous.

The act contains a severability clause and a null and void clause.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on April 17, 2023.

Effective Date: Sections 2 through 6, 8 through 12, and 35 of the bill contain an emergency clause and take effect immediately. The remainder of the bill contains multiple effective dates. Please see the bill. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Community Safety, Justice, & Reentry):

Please refer to the March 20, 2023, recording of the public hearing on the bill.

Staff Summary of Public Testimony (Appropriations):

(In support) In a recent emphasis control, police contacted and offered services to over 350 individuals experiencing homelessness and addiction. Less than 10 people were open to treatment. There is a continual presence of people refusing treatment and staying unsafe in an unhealthy environment. This has led to an increasing number of complaints and concerns by residents, businesses, and the community. Although there is support for people to take advantage of treatment, accountability is vital. People need to be motivated to comply with treatment. There is support for the original bill as provided by the Senate.

This bill will add costs to cities including costs for courts, clerks, and prosecutorial and defense costs at an estimated \$10 million. There are funds in both the House and Senate budgets for *Blake* expenses and the cities would like the flexibility for those funds to be used for the expenses related to this bill.

(Opposed) Although this issue is important, there is no support for the version of the bill that passed out of the Community Safety, Justice, and Reentry Committee. The original bill from the Senate was carefully crafted to get individuals in the criminal justice system into treatment. However, the current version of this bill from the policy committee will result in people getting less treatment, more jail time, more criminal histories, and as a result, these individuals will not get the help that they need.

(Other) Washingtonians are dying in record numbers due to overdose deaths. The original policy bill passed in the Senate was much better than the current version of the bill that passed out of the House policy committee. The Senate's version of the bill contained treatment, accountability, and consequences for those who were either unwilling or unable to go through treatment and diversion. However, there are concerns in regard to some of those provisions that were removed and whether there will be sufficient funding for the criminal justice system to enforce penalties since many jails are currently full and overcrowded.

Persons Testifying (Community Safety, Justice, & Reentry): (In support) Senator June Robinson, prime sponsor; Nadine Woodward, City of Spokane; Andrew Rolwes, Downtown Spokane Partnership; Armondo Pavone, City of Renton; Jon Nehring, City of Marysville; Josh Weiss, Snohomish County; Amy Ockerlander, City of Duvall and Association of Washington Cities; Lindsey Hueer, Association of Washington Cities; Taylor Gardner and Steve Strachan, Washington Association of Sheriffs and Police Chiefs; Anne Anderson, Washington State Narcotics Investigators Association; Dave Hayes, Washington Council of Police and Sheriffs; Dana Ralph, City of Kent; Nancy Backus, City of Auburn; and Dan Templeman, City of Everett.

(Opposed) David Trieweler, Washington Association of Criminal Defense Lawyers and Washington Defender Association; Heather Kelly, League of Women Voters of Washington; Kim Thorburn; and Joe Coniff.

(Other) Chad Enright, Kitsap County Prosecutor and Washington Association of Prosecuting Attorneys; Mandy Owens and Caleb Banta-Green, University of Washington Addictions, Drug and Alcohol Institute; Cole Meckle, Gather Church; Larry Jefferson, Washington State Office of Public Defense; Malika Lamont; Lisa Daugaard; Michael White, King County; Mary Lou Pauly, City of Issaquah; Juliana Roe, Washington State Association of Counties; Eric Richey; Mark Johnson, Washington Retail Association; Christina Mason, Washington Association of Drug Courts; Melissa Johnson, District and Municipal Court Judges Association; Sarah Hudson and Kelly Vomacka, Washington Defender Association and Washington Association of Criminal Defense Lawyers; and Prachi Dave, Civil Survival.

Persons Testifying (Appropriations): (In support) Lindsey Hueer, Association of Washington Cities; Dana Ralph, City of Kent; and Armondo Pavone, City of Renton.

(Opposed) James McMahan, Washington Association of Sheriffs and Police Chiefs.

(Other) Michael White, King County; Larry Jefferson, Washington State Office of Public Defense; Scott Brandon; Lisa Daugaard; DeAunte Damper; Everett Maroon; Vanessa Martin; Bethany Barnard; Anne Anderson, Washington State Narcotics Investigators Association; Russell Brown, Washington Association of Prosecuting Attorneys; Jeff DeVere, Washington Council of Police and Sheriffs; and Michael Transue, Washington

Fraternal Order of Police.

Persons Signed In To Testify But Not Testifying (Community Safety, Justice, & Reentry): Aaron Rivkin; John Worthington; Chelle Wilder; Jude Ahmed; Adam Palayew; Don Julian Saucier; Carmen Pacheco-Jones; Vanya Sandberg; Karen Thompson; Everett Maroon; Deaunte Damper; Allyn Hershey; Johnny Bousquet; Jenna Van Draanen; Courteney Wettemann; Brandie Flood; Michelle Conley; and Ashley Dawson.

Persons Signed In To Testify But Not Testifying (Appropriations): None.