

HOUSE BILL REPORT

2E2SSB 5536

As Passed House:

May 16, 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, Liias, 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.

Senate Refused to Concur.

Conference Committee.

Failed House: 4/23/23, 43-55.

First Special Session

Floor Activity:

Passed Senate: 5/16/23, 43-6.

Passed House: 5/16/23, 83-13.

Brief Summary of Second Engrossed Second Substitute Bill

- 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

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.

offenses and the related penalties, establishing the gross misdemeanor offenses of Use of a Controlled Substance in a Public Place and Use of a Counterfeit Substance in a Public Place, and establishing the misdemeanor offense of Use of a Legend Drug in a Public Place.

- 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, subject to certain exceptions.
- Establishes a pretrial diversion opportunity for persons charged with qualifying drug offenses.
- Requires the court to dismiss a defendant's charge for a qualifying drug offense if the defendant successfully completes pretrial diversion, and vacate a person's conviction for a qualifying drug offense if the person completes a substance use disorder (SUD) program or substantially complies with recommended treatment or services for six months.
- Repeals the provision requiring law enforcement to offer a person who would otherwise be subject to arrest for qualifying drug 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 offenses within 45 days of receiving the request for analysis.
- Establishes new programs and services and modifies the scope of existing programs and services related to SUD outreach, treatment, recovery, and data tracking.

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 Bill:

Drug Possession.

Description of Offenses and Penalties.

Effective July 1, 2023, the conduct that constitutes certain drug possession offenses and the related penalties are modified as follows:

- Possession of a Controlled Substance and Possession of a Counterfeit Substance are reclassified as gross misdemeanor offenses. A person's first and second convictions for such offenses are punishable by up to 180 days in jail, up to a \$1,000 fine, or both. A person's third and subsequent convictions for such offenses are punishable by up to 364 days in jail, up to a \$1,000 fine, or both.
- Use of a Controlled Substance in a Public Place and Use of a Counterfeit Substance in a Public Place are established as gross misdemeanor offenses. A person's first and second convictions for such offenses are punishable by up to 180 days in jail, up to a \$1,000 fine, or both. A person's third and subsequent convictions for such offenses are punishable by up to 364 days in jail, up to a \$1,000 fine, or both.
- Use of a Legend Drug in a Public Place is established as a misdemeanor.
- A person may not be simultaneously charged for both possession and public use offenses relating to the same course of conduct.

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.

Effective July 1, 2023, a pretrial diversion opportunity is created for defendants charged with a qualifying drug offense, which includes Possession of a Controlled Substance, Possession of a Counterfeit Substance, Possession of a Legend Drug, Possession of 40 Grams or Less of Cannabis, Use of a Controlled Substance in a Public Place, Use of a Counterfeit Substance in a Public Place, or Use of a Legend Drug in a Public Place.

A defendant charged with a qualifying drug offense may make a motion to participate in diversion and agree to waive the right to a speedy trial if the motion is granted. In all cases, the court may not grant the motion unless the prosecuting attorney consents to the defendant's participation in diversion. In any case where the defendant is only charged with a qualifying drug offense, and the defendant has not been convicted of any offenses committed after July 1, 2023, the court must grant the motion, continue the hearing, and refer the defendant to a recovery navigator program (RNP), law enforcement assisted diversion (LEAD) program, or an arrest and jail alternative (AJA) program for an assessment. In any other case, the court has discretion to grant the motion. 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 RNP, LEAD program, or AJA program must make provide the court written confirmation of completion of the assessment and a statement indicating the defendant's enrollment or referral to any specific service or program. The confirmation and statement 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. Subject to the availability of funds, the assessment and recommended treatment or services must be provided at no cost for defendants who have been found to be indigent by the court.

If the RNP, LEAD program, or AJA program recommends treatment or services, the defendant successfully completes diversion either by completing all recommended treatment or services or by having 12 months of substantial compliance with recommended treatment or services and progress toward recovery goals as reflected by a written status update from the applicable program, whichever occurs first. 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 RNP, LEAD program, or AJA program 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. At the hearing on the motion, the court must consider specific factors about the alleged noncompliance. If the court finds the defendant is not substantially complying with recommended treatment or services and terminates diversion, the court must state the grounds for its decision and provide the prosecutor, defendant, and defendant's counsel with a written order.

Beginning January 1, 2025, RNPs, LEAD programs, and AJA programs must input data and information in the Health Care Authority's (HCA) data integration platform for each case where a defendant participates in pretrial diversion, including but not limited to the following:

- whether the pretrial diversion was terminated or was successfully completed and resulted in a dismissal;
- the race, ethnicity, gender, gender expression or identity, disability status, and age of the defendant; and
- any other appropriate data and information as determined by the HCA.

Vacating Convictions.

Effective July 1, 2023, a person is eligible to vacate a conviction for a qualifying drug offense if the person completes a substance use disorder (SUD) program and files proof of completion with the court, or obtains an assessment from an RNP, LEAD program, or AJA program and has six months of substantial compliance with recommended treatment or services and progress toward recovery goals as reflected by a written status update.

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 drug offense within 45 days of receiving the request for analysis.

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, smoking 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 qualifying drug offenses.

The state 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, except that nothing in the Uniform Controlled Substances Act (UCSA) may be construed to prohibit cities or counties from enacting laws or ordinances relating to the establishment or regulation of harm reduction services concerning 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 state law and consistent with the UCSA. 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. 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.

The requirement for the DOH to hold a public hearing before making a decision on an application for licensing or certifying an OTP is eliminated. Instead, the DOH must provide public notice to all appropriate media outlets in the community where the facility is proposed to be located.

Law Enforcement Assisted Diversion Grant Program.

The LEAD pilot project is converted to a grant program administered by the 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 June 30, 2024, the HCA must revise its uniform program standards for the BHASOs to follow in the design of RNPs to achieve fidelity with LEAD program core principles. 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, 2025, the HCA must develop and implement a data integration platform to support RNPs, LEAD programs, AJA programs, and similar diversion efforts. The platform must serve as a common database available for tracking diversion efforts across Washington, serve as a data collection and management tool for practitioners, assist in standardizing definitions and practices, and track demographic information about pretrial diversion participants. 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. Information submitted to the data integration platform is exempt from public disclosure.

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 June 30 of 2028, 2033, and 2038. 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.

The WSIPP must, in consultation with the HCA and other key stakeholders, conduct a descriptive assessment of the current status of RNPs and the degree to which the implementation of RNPs reflects fidelity to LEAD program core principles as established by the LEAD National Support Bureau toolkit, and submit the assessment to the Governor and the Legislature by June 30, 2024.

Health Engagement Hubs.

By June 30, 2024, the HCA must develop payment structures for health engagement hubs. Subject to the availability of funding, and to the extent allowed under federal law, the HCA must direct Medicaid managed care organizations to adopt a value-based bundled payment methodology in contracts with health engagement hubs and other opioid treatment providers, except that the HCA must not implement such a requirement in managed care contracts unless expressly authorized by the Legislature.

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.

Health engagements hubs are intended to:

- serve as an all-in-one location where people 18 years of age or older 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; and
- provide linkage to housing, transportation, and other support services.

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.

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.

Public Defense Consultation and Representation.

The Office of Public Defense (OPD) may, subject to appropriation, provide reimbursement of eligible expenses or contract directly with indigent defense providers for consultation and representation services for indigent adults charged with qualifying drug offenses in courts of limited jurisdiction, in counties with a population of 500,000 or less and cities with a population of 200,000 or less. A county or city may enter into an agreement with the OPD for reimbursement of eligible expenses or designate the OPD to contract directly with

indigent defense providers for consultation and representation services in the jurisdiction.

Appropriations.

Appropriations are made for the DOH, the Department of Revenue (DOR), the Joint Legislative Audit and Review Committee (JLARC), the WSP, the HCA, the Department of Commerce (Commerce), and the OPD as follows:

- DOH: \$47,000 from the State General Fund, and \$13,000 from the Health Professions Account, to adopt rules related to mobile medication units and conduct inspections for such units;
- DOR: \$734,000 from the State General Fund, to administer the recovery residence tax exemption;
- JLARC: \$23,000 from the Performance Audits of Government Account, to conduct a tax preference review of the property tax exemption for recovery residences;
- WSP: \$1.263 million from the State General Fund, to analyze evidence submitted for suspected drug offenses;
- HCA: \$3.6 million from the Opioid Abatement Settlement Account, and \$1.4 million from the State General Fund, to maintain a memorandum of understanding with the Criminal Justice Training Commission to provide ongoing funding for community grants;
- HCA: \$3.783 million from the Opioid Abatement Settlement Account, and \$3.81 million from the State General Fund—Federal, for administration of this act;
- HCA: \$2 million from the State General Fund, to award grants to crisis services providers to establish and expand 23-hour crisis relief center capacity;
- HCA: \$4 million from the Opioid Abatement Settlement Account, to establish a health engagement hub pilot program in both urban and rural locations;
- HCA: \$3.768 million from the Opioid Abatement Settlement Account, to increase the number of mobile methadone units and fixed medication units operated by existing opioid treatment providers, and expand OTPs with a prioritization for rural areas;
- HCA: \$5.242 million from the Opioid Abatement Settlement Account, to provide grants to providers of employment and educational services for individuals with SUDs;
- HCA: \$500,000 from the Opioid Abatement Settlement Account, and \$1.5 million from the State General Fund, to provide grants to support SUD family navigator programs;
- HCA: \$7.5 million from the State General Fund, to provide short-term housing vouchers for individuals with SUDs, with a focus on resources for people in the state's five most populous counties;
- HCA: \$4 million from the State General Fund, to provide grants for the operational costs of certain recovery residences, with a focus on recovery residences which serve individuals in the state's five most populous counties;
- HCA: \$2 million from the State General Fund, to support the provision of behavioral health co-responder services on nonlaw enforcement emergency medical response teams;

- HCA: \$500,000 from the State General Fund, to continue and increase contracting services to provide information and support on safe housing and support services for youth;
- HCA: \$5 million from the State General Fund, to award contracts through the LEAD grant program;
- Commerce: \$3 million from the State General Fund, to administer a competitive grant process through the Office of Homeless Youth to award funding to certain entities that provide behavioral health support services for youth in crisis; and
- OPD: \$9 million from the State General Fund, to provide reimbursement of eligible expenses or contract directly with indigent defense providers for consultation and representation services for indigent adults charged with applicable drug offenses in courts of limited jurisdiction, in counties with a population of 500,000 or less, and cities with a population of 200,000 or less.

Miscellaneous.

The act contains a severability clause.

Appropriation: The sum of \$62,683,000 is appropriated.

Fiscal Note: Available.

Effective Date: Sections 1 through 5, 7 through 11, and 41 of the bill contain an emergency clause and take effect July 1, 2023. The remainder of the bill contains multiple effective dates. Please see the bill.

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 Trieweiler, 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.