

SENATE BILL REPORT

2E2SSB 5536

As Passed Senate, March 3, 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: Law & Justice: 2/06/23, 2/09/23 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/18/23, 2/23/23 [DP2S, DNP, w/oRec].

Floor Activity: Passed Senate: 3/3/23, 28-21.

Brief Summary of Second Engrossed Second Substitute Bill

- Classifies knowing possession of controlled substance or counterfeit substance as gross misdemeanor crimes.
- Creates the crimes of knowing use of a controlled substance, counterfeit substance, or legend drug in a public place.
- Creates a pretrial diversion program for individuals charged with possession.
- Enacts recommendations of the Substance Use and Recovery Services Advisory Committee which expand substance use disorder treatment, and harm reduction programs, and related services.
- Makes \$63 million in appropriations related to substance use disorder, harm reduction, and other related programs.

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.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5536 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon and Valdez.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; McCune, Torres and Wilson, L..

Minority Report: That it be referred without recommendation.

Signed by Senator Wagoner.

Staff: Joe McKittrick (786-7287); Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5536 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Billig, Braun, Conway, Hunt, Keiser, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Dhingra, Hasegawa and Saldaña.

Minority Report: That it be referred without recommendation.

Signed by Senators Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Boehnke, Muzzall, Nguyen, Pedersen, Torres and Wagoner.

Staff: Corban Nemeth (786-7736)

Background: *State v. Blake Decision*. In 2021, the Washington State Supreme Court decided the case of *State v. Blake*, which struck down Washington's criminal statute prohibiting possession of a controlled substance. Prior to the *Blake* decision, possession was a class C felony. The court reasoned that the lack of a requirement to prove knowledge of possession did not force the state to prove criminal intent, violating the defendant's right to due process.

In response to the *State v. Blake* decision, the Legislature passed ESB 5476 which in part modified statutes prohibiting the possession of a controlled substance, counterfeit substance, legend drug, or 40 grams or less of cannabis, to require proof of knowing possession of the prohibited substances. These offenses are classified as misdemeanor crimes, punishable by

up to 90 days in jail, a \$1,000 fine, or both. Prosecutors are encouraged to divert such cases for assessment, treatment, and other services. The modifications to these possession statutes are set to expire on July 1, 2023.

The legislation also provided that, in lieu of booking individuals arrested for simple possession in jail, prosecutors and law enforcement must offer the individual a referral to assessment and treatment for the individual's first two arrests and may, but are not required, to continue to offer a referral to assessment and treatment for any subsequent arrest for simple possession.

The Substance Use Recovery Services Advisory Committee. ESB 5476 also created a Substance Use Recovery Services Advisory Committee (SURSAC). The 26 members appointed to SURSAC started meeting in December 2021, with the charge to develop a substance use recovery plan. The committee and its four subcommittees met a total of 65 times, and submitted a final plan with 16 recommendations to the Legislature in January 2023.

The Law Enforcement Assisted Diversion Program. The Law Enforcement Assisted Diversion program (LEAD program) is a national model program started in Seattle in which police officers exercise discretionary authority at point of contact to divert individuals to a community-based, harm-reduction intervention for law violations driven by unmet behavioral health needs. Washington State funds LEAD programs as a pilot program in which funds are provided subject to appropriation for two or more geographic areas in the state of Washington to receive technical assistance to develop a LEAD program with fidelity to the model.

Arrest and Jail Alternative Program. The Arrest and Jail Alternative Program is a grant program administered by the Washington Association of Sheriffs and Police Chiefs to support local initiatives to identify persons with SUDs and other behavioral health needs and engage them with therapeutic interventions and other services. Programs with a prebooking diversion focus are preferred.

Summary of Second Engrossed Second Substitute Bill: Possession of a Controlled Substance, Counterfeit Substance, Cannabis, or a Legend Drug. It is a gross misdemeanor to knowingly possess a controlled substance or counterfeit substance, or to knowingly use a controlled substance or counterfeit substance in a public place. Possession of a legend drug and possession of an ounce or more of cannabis, or possession of any amount of cannabis for individuals under 21 years of age, remain misdemeanor crimes. Law enforcement officers are encouraged to offer any individual arrested for simple possession a referral to assessment, treatment, or other services, such as arrest and jail alternatives and law enforcement assisted diversion programs, in lieu of booking the individual in jail and referring the case for prosecution.

Possession of a controlled substance and possession of a counterfeit substance are punishable by up to 180 days in jail, a \$1,000 fine, or both, unless the defendant has two prior convictions for the same offense committed after July 1, 2023, in which case the maximum confinement time is 364 days.

Testing of Suspected Drugs in Criminal Cases. The Washington State Patrol Bureau of Forensic Laboratory Services must aim to complete the necessary analysis of suspected drugs in simple possession cases within 45 days of receipt of the request for analysis. If the Washington State Patrol Bureau of Forensic Laboratory Services fails to meet the 45-day guideline it does not constitute grounds for dismissal of a criminal charge.

Pretrial Diversion. A pretrial diversion opportunity is created for defendants charged with possession of a controlled substance, counterfeit substance, legend drug, or 40 grams or less of cannabis, or the knowing use of a controlled substance, counterfeit substance, or legend drug in a public place. The new pretrial diversion opportunity does not preclude the defense or prosecution from seeking to resolve possession charges through available therapeutic courts or other alternatives to prosecution.

A defendant charged with a qualifying offense may move for a diversion and agree to waive the right to a speedy trial if the motion is granted. The court may not grant the motion in any case unless the prosecuting attorney consents to the defendant's participation in pretrial diversion. 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 court grants the motion for pretrial diversion, it must continue the hearing and refer the defendant to a Recovery Navigator Program (RNP), an Arrest and Jail Alternative (AJA) Program, or Law Enforcement Assisted Diversion (LEAD) Program. Before granting the motion, the court must provide the defendant and the defendant's counsel with a description of the program and its procedures.

If granted pretrial diversion, the defendant must substantially comply with the treatment or services offered by the RNP, AJA program, or LEAD program. If the program does not recommend any specific treatment or services, the defendant must complete up to 120 hours of community service determined by the court.

If it appears to the prosecuting attorney that the defendant is not substantially complying with the recommended treatment or services, the prosecutor may make a motion to terminate pretrial diversion. At any hearing on a motion to terminate pretrial diversion, the court must consider certain factors including the nature of the alleged noncompliance and any other mitigating circumstances. If the court finds the defendant is not substantially complying and terminates pretrial diversion, the court must state the grounds for its decision on the record and provide the parties with a written order.

If the defendant successfully completes pretrial diversion by either having 12 months of substantial compliance with the recommendations of the program or completing the recommended treatment or services, whichever occurs first, or, if applicable, by completing the required community service, the court must dismiss the charge or charges.

Sentencing for Simple Possession. When sentencing an individual for knowing possession or knowing use in a public place, the court is encouraged to utilize any other resolution of the charges or terms of supervision that suit the circumstances of the defendant's situation and advance stabilization, recovery, crime reduction, and justice.

Vacatur of Convictions for Knowing Possession and Knowing Use in a Public Place. If a person convicted of knowing possession or knowing use in a public place completes a substance use disorder program and files proof of completion with the court, or if the person obtains an assessment from an RNP, AJA program, or LEAD program and has six months of substantial compliance with the recommended treatment or services reflected by a written status update, the court must vacate the conviction or convictions upon verification.

Drug Paraphernalia. The State of Washington fully occupies and preempts the field of drug paraphernalia regulation. Cities, towns, counties, and other municipalities may enact only those laws and ordinances relating to drug paraphernalia that are specifically authorized by state law and are consistent with state law. However, cities and counties may still enact laws or ordinances relating to the establishment or regulation of harm reduction services concerning drug paraphernalia.

The prohibition against giving or permitting drug paraphernalia to be given is eliminated. Selling drug paraphernalia or permitting drug paraphernalia to be sold remains a class I civil infraction. Drug testing and analyzing equipment is removed from the definition of drug paraphernalia. The prohibitions related to drug paraphernalia do not apply to distribution or use of public health supplies, including syringe equipment, smoking equipment, or testing equipment, through public health programs and community-based HIV prevention programs and pharmacies. Public health and syringe service program staff are exempt from arrest and prosecution for taking samples of substances and using drug testing equipment to analyze substances or detect substances.

Law Enforcement Assisted Diversion Program. The LEAD Program is reestablished as a grant program instead of a pilot program. Geographical and numerical limitations on the LEAD Program are removed. Sufficient funds must be allocated for the LEAD Program to provide technical assistance to all implementing jurisdictions. No civil liability may be imposed on state or local government, nonprofits, tribes, or tribal organizations based on their administration of a LEAD Program except upon proof of bad faith or gross negligence.

Recovery Navigator Programs. Goals are defined for RNPs including providing law enforcement personnel with a credible alternative for further legal system involvement for criminal activity stemming from unmet behavioral health needs or poverty. Standards are

provided such as use of a dedicated project manager and prioritizing service to individuals who are actually or potentially exposed to the criminal legal system. HCA must revise its uniform program standards for RNPs by June 30, 2024, to achieve fidelity with the core principles of LEAD. No civil liability may be imposed on state or local government, nonprofits, tribes, or tribal organizations based on their administration of an RNP except upon proof of bad faith or gross negligence.

Opioid Treatment Program Rural Access and Expansion. Opioid treatment programs (OTPs), mobile or fixed-site medication units within OTPs, recovery residences, and harm reduction programs excluding safe injection programs, are recognized as essential public facilities for the purpose of local land-use regulations. Counties and cities may only impose such reasonable conditional use requirements as are similarly applied to other essential public facilities and health care settings. A requirement for DOH to hold a public hearing in a community where an OTP is proposed to be located is removed; however, DOH must provide public notice to all appropriate media outlets in the community. Cities are prohibited from imposing a maximum capacity on OTPs.

Remote Dispensing Sites for Persons With an Opioid Use Disorder. Remote dispensing sites operating under a pharmacy license may use technology to treat the symptoms of opioid use disorder, as well as the disorder itself. The dispensing technology may be owned by either the pharmacy or the remote dispensing site.

Appropriations. Appropriations for the 2023-2025 biennium are made from the state general fund, opioid abatement settlement account, and other fund sources as follows:

- \$60,000 to DOH to adopt rules related to mobile medication units and conduct inspections for such units;
- \$734,000 to the Department of Revenue to administer the recovery residence tax exemption;
- \$23,000 to the Joint Legislative Audit and Review Committee for a tax preference review of the recovery residence tax exemption;
- \$1.3 million to the Washington State Patrol Bureau of Forensic Laboratory Services to complete analysis for evidence submitted for suspected violations of possession or public use of a controlled substance, counterfeit substance, or legend drug;
- \$5 million to HCA to maintain a memorandum of understanding with the Criminal Justice Training Commission to provide ongoing funding for grants to engage persons with SUD disorders and other behavioral health needs with therapeutic interventions and other services;
- \$7.6 million to HCA for the administration of this act;
- \$2 million to HCA to award grants to establish and expand 23-hour crisis relief center capacity;
- \$4 million to HCA to establish the Health Engagement Hub Pilot Program;
- \$3.8 million to HCA to increase the number of mobile methadone units and fixed medication units operated by existing OTPs, and to expand OTPs with a prioritization for rural areas;

- \$5.2 million to HCA to provide grants to providers of employment and educational services to persons who use drugs;
- \$2 million to HCA to provide grants to support SUD family navigator programs;
- \$7.5 million to HCA to provide short-term housing vouchers for individuals with SUDs, with a focus on King, Pierce, Snohomish, Spokane, and Clark counties;
- \$4 million to HCA to provide grants for the operational costs of new staffed recovery residences that require more support than a level 1 residence;
- \$2 million to HCA to support provision of behavioral health co-response services on non-law enforcement emergency response teams;
- \$500,000 to HCA to continue and increase provision of information and support to inpatient treatment facilities and other stakeholders and community providers related to safe housing and support services for youth exiting inpatient behavioral health facilities;
- \$3 million to the Department of Commerce for the Office of Homeless Youth to administer a grant process for licensed youth shelters, HOPE centers, and crisis residential centers to provide behavioral health support services for youth in crisis; and
- \$9 million to the Office of Public Defense to provide reimbursement for public defense expenses related to possession and public use of drugs to courts of limited jurisdiction in counties with a population of less than 500,000 and cities with a population of less than 200,000.

Establishing a Pilot Program for Health Engagement Hubs. HCA must implement a pilot program for health engagement hubs in at least two sites, one urban and one rural, by August 1, 2024. HCA must develop payment structures for hubs by June 30, 2024. Hubs are defined as all-in-one locations where people who use drugs can access a range of medical, harm reduction, treatment, and social services. Hubs must be restricted to adults 18 years and older. HCA must direct Medicaid managed care organizations to adopt a value-based bundled payment methodology in contracting with hubs and other opioid treatment programs, to the extent permitted by federal law, but not implement this requirement in managed care contracts unless expressly authorized by the Legislature.

Funding, Promotion, and Training for Recovery Residences. Real and personal property owned, rented, or leased by a nonprofit organization to maintaining a registered recovery residence is exempt from taxation if the charge for the housing does not exceed the actual cost of operation and maintenance.

HCA must make sufficient funding available to establish an adequate and equitable stock of recovery residences in each region of the state, subject to funding. HCA must establish a voucher program to allow accredited recovery housing operators to hold bed space for individuals who are waiting for treatment. HCA must conduct outreach to underserved and rural areas to support the development of recovery housing, including adequate resources for women, LGBTQIA+ communities, Black, indigenous, and other people of color communities, immigrant communities, and youth.

HCA must develop training for housing providers by January 1, 2024, to assist them with providing appropriate services to LGBTQIA+, BIPOC, and immigrant communities, including consideration of topics like harassment, antiracism, diversity, and gender affirming behavior, and to ensure that applicants for grants or loans related to recovery residences receive access to the training.

Training for Parents of Children with Substance Use Disorders and Caseworkers Within the Department of Children, Youth, and Families. HCA in consultation with the Department of Children, Youth, and Families (DCYF) must develop training for parents of children and transition-age youth by June 30, 2024, building upon existing training at HCA, which provides education on SUDs, adaptive and functional communication strategies with a person with a SUD, self-care, and how to obtain and use opioid overdose reversal medication. HCA and DCYF must make the training available and DCYF must promote it to licensed foster parents and caregivers, including any tribally-licensed foster parents and tribal caregivers.

DCYF must make opioid overdose reversal medication and training available to all staff whose job duties require in-person service or case management for child welfare or juvenile rehabilitation clients.

Data Support and Effectiveness Studies for Recovery Navigator Programs. HCA must develop and implement a data integration platform by June 30, 2025, to serve as a common database for RNP, AJA programs, LEAD programs, and similar diversion efforts across the state; to serve as a data collection and management tool for practitioners; to assist in standardizing definitions and practices; and to track participation and outcomes by race, ethnicity, gender, gender expression or identity, disability status, and age. HCA must leverage and interact with existing systems to the extent possible. Information submitted to the data platform is exempt from public disclosure under the Public Disclosure Act.

HCA must contract with the Washington State Institute for Public Policy (WSIPP) to conduct a study of the long-term effectiveness, trends, and utilization disparities of RNPs and LEAD programs in Washington State over 15 years with reports due in 2028, 2033, and 2038. WSIPP must provide a current status assessment by June 30, 2024, which includes a report of existing program fidelity to the core principles of LEAD established by the LEAD National Support Bureau.

HCA must establish an expedited pre-approval process by August 1, 2023, allowing requests for the use of data to be forwarded to the Washington State Institutional Review Board without delay when the request is made by WSIPP for the purpose of completing a study that has been directed by the Legislature.

Creating Education and Employment Pathways. HCA must establish a grant program for programs designed to provide persons recovering from SUDs with employment, education,

training, certification, and other supportive opportunities, with priority given to programs that engage with Black, indigenous, persons of color, and other historically underserved communities.

Providing a Statewide Directory of Recovery Services. Subject to funding, HCA must collaborate with DOH and the Department of Social and Health Services to expand the Washington Recovery Helpline and the Recovery Readiness Access Tool to provide a dynamically updated, statewide behavioral health treatment and recovery support services mapping tool, including a robust resource database and referral system, to facilitate the connection between individuals and facilities which are currently accepting new referrals.

Streamlining Substance Use Disorder Treatment Intakes. HCA must convene a work group to recommend changes to intake, screening and assessment for SUD services by December 1, 2024, with the goal of shortening the intake process and broadening the workforce capable of processing SUD intakes. HCA must include providers, payors, and people who use drugs in the work group, and other individuals recommended by HCA.

Health Care Authority Data Reporting Requirements. HCA must provide reports to the Governor and Legislature by December 1, 2023, December 1, 2024, and on July 1st annually from 2024 to 2028 concerning the prevalence of SUDs; interactions of persons with SUDs with service providers, first responders, health care facilities, and law enforcement agencies; and implementation, results, and effectiveness of provisions of this bill, including the number of contracts awarded and clients served in RNPs, recovery residences, LEAD programs, and health engagement hub pilot programs.

Miscellaneous. The statute requiring law enforcement and prosecutors to offer a referral to assessment and treatment for an individual's first two arrests for simple possession is repealed.

Appropriation: The bill contains appropriations totaling \$38 million from the state general fund.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill (Law & Justice): *The committee recommended a different version of the bill than what was heard.* PRO: The current response to drug possession is not working. Drug possession should be a gross misdemeanor, and any legislation should focus on diversion options for those charged with possession. Cities and counties will need more resources to get these programs off the ground. Pretrial diversion incentivizes treatment, by allowing the charge to be dismissed if

treatment is completed. The use of drugs propagates other crimes such as burglaries and theft. This bill will help break the vicious cycle of addiction. The best path for individuals to receive treatment is with an incentive through the courts. Leaving people in the spin-cycle of addiction will not help. The path to recovery should be accompanied by a dismissal of the charges, but there should also be consequences for the person's failure or refusal to do treatment. Focusing intervention on pretrial diversion is much cheaper and will have the greatest impact for communities. It generally costs around \$5,000 to \$10,000 to prosecute a gross misdemeanor. We have seen that recidivism is much less when individual's cases are processed through therapeutic courts rather than the traditional adversarial courts. Evidence has shown that courts and jails are not effective settings for addressing substance abuse issues. What we need now is a legal framework that shifts the focus to providing treatment rather than punishment. This bill authorizes and supports pre-booking intervention as well as incentivizing those charged with possession to get into treatment. This is the best policy because it aligns with therapeutic court models already in place in many courts. It also provides clarity and guidance for law enforcement to help individuals with substance use disorders. This bill should be amended to clarify that cities will not need to cover the cost of providing treatment services to indigent individuals who are not covered by insurance.

This bill is a good start as it focuses on treatment rather than punishment, however it is too focused on treatment. The legislation seems to be aimed at first-time offenders or low-risk offenders. However, this does not address repeat offenders or offenders who commit other crimes along with drug possession. Officers have made referrals to treatment, but most refuse. We need to support our communities as well as those with substance use disorders. The revolving door of arrest, prosecute, jail, release, and repeat is simply not effective. Criminalizing drug possession has had a disproportionate effect on people of color. This bill prioritizes and incentivizes treatment using the criminal justice system to address those who refuse or abandon treatment. This takes a significant step towards addressing substance abuse issues in our communities by reestablishing accountability and addressing the need for treatment. Cities and counties must have continued input on the siting of treatment facilities to ensure there is not a conglomeration of these facilities in underserved communities.

CON: If this bill passes, we are putting the solution in the same category as the problem. Classifying cannabis and other medicinal plants like fungi is harmful to those who need these medicines. For millennia, indigenous people have honored these medicines, but criminalizing these plants prohibits their use. Classifying possession as a gross misdemeanor will not help save lives, and increased investment in notoriously biased drug courts will only disparage black and brown people. Diversion is useful, but the state needs pre-booking diversion as well. Going to jail is a traumatic experience and adding trauma to the trauma individuals with substance use disorders suffer will only exacerbate the situation. Drug use can be devastating, but so to can the response. These policies will disproportionately increase police contacts with black and brown communities.

OTHER: This bill needs to address the potential immigration consequences of drug charges.

People with immigration issues are doubly punished because they face consequences in criminal court which may lead to deportation or the person not being able to proceed with their immigration case. Vacating a conviction will not work because the definition of vacation in immigration courts is different than the state definition. All diversion is not created equal, and if this does not include immigration-safe language this could be a recipe for failure for noncitizens. The criminal system should not be used to achieve public health policy. Drug use is a health crisis not a legal crisis. Many people in rural areas of the state currently do not have access to substance use treatment. This needs to include investments in community health services. Without this investment those individuals sent to diversion in rural areas will not be able to access treatment. While this bill is a good start, it should also address those who are arrested for possession and other, often more serious, crimes. Whatever the solution, it should be data-driven. This must be accompanied by continued funding to allow the courts to address these issues. We need to institutionalize the sequential intercept model.

Persons Testifying (Law & Justice): PRO: Senator June Robinson, Prime Sponsor; David Hayes, Washington Council of Police and Sheriffs; Breean Beggs, Spokane City Council President; Jim Ferrell, Mayor, City of Federal Way; Amy Ockerlander, Mayor, City of Duvall & Association of Washington Cities; Mary Lou Pauly, Mayor, City of Issaquah; Armondo Pavone, Mayor, City of Renton; Dan Templeman, Police Chief, City of Everett; James McMahan, WA Assoc Sheriffs & Police Chiefs; Barbara Tolbert, Mayor, City of Arlington; Jon Nehring, Mayor, City of Marysville; Celia Jackson, Office of King County Exec; Mayor Victoria Woodards, City of Tacoma.

CON: Lauren Feringa; Don Julian; Malika Lamont, VOCAL-WA; Adam Palayew; Jude Ahmed, Urban League of Metropolitan Seattle & Tacoma.

OTHER: Lisa Daugaard, Public Defender Association; Chad Enright, Kitsap County Prosecutors; Matt McCourt, Washington State Narcotics Investigators Association; Judge Kevin Ringus, District & Municipal Court Judges Association; Larry Jefferson, Office of Public Defense; Jason Schwarz, WA Defender Assn/WA Assn of Criminal Defense Lawyers; Sarah Hudson, WA Defender Assn/WA Assn of Criminal Defense Lawyers; David Larson, Federal Way Municipal Court.

Persons Signed In To Testify But Not Testifying (Law & Justice): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This bill creates opportunities to provide cost effective substance use disorder services. Law Enforcement Assisted Diversion (LEAD) and Alternatives to Arrest and Jail (AJA) programs work and we would like to see distinct funding in the bill for these programs. This is the most important issue you will tackle this session. Please allocate funding for pretrial diversion programs and make investments for opioid treatment more flexible for all substance use disorder programs. We have seen an increase in police response to drug infractions. Providing sufficient resources is critical and we encourage options that get

individuals into treatment. The Legislature needs to ensure expanded efforts are funded on behalf of cities. This bill promotes compassion, accountability, and community. Please ensure funding so local programs in the bill are successful. We support pre-booking diversion and are glad to see its inclusion in this bill. This bill does a good job balancing accountability and treatment. Please consider stronger focus on incentives for treatment as you move this bill forward.

CON: The SURSA committee voted on decriminalization and I agree with that view. I encourage an approach that is more compassionate. This bill is weakened from the version heard in policy committee. There is less incentive for individuals to get help. This is both a public health and criminal justice problem.

OTHER: The Legislature needs to fund treatment through drug courts and the criminal justice treatment account. The faster that treatment is provided, the more successful the intervention is. The Substance Use Recovery Services Advisory (SURSA) Committee recommendations in this bill could result in an uptake of service delivery. Individuals want to obtain treatment and do not need coercion to do so. This bill has a concerning focus on accommodating drug use. The threat of punishment generally does not help get individuals into treatment. LEAD and AJA programs need to be modified and expanded. The State Patrol Crime Lab turn-around time will be a barrier to the intent of this bill. Misdemeanor testing can take up to a year to be completed. We can't coerce people into treatment. If you criminalize possession, then you need to fully fund public defense. We don't want to make employment for attorneys, which is what criminalization does. Absent legislation, drugs become legal on July 1st of this year. We support leveraging the consequences of the criminal justice system to get individuals into treatment. Constitutional defense for criminal drug possession is a cost not reflected in the fiscal note. We need 40 additional defenders plus support staff to meet the demand in the bill.

Persons Testifying (Ways & Means): PRO: Senator June Robinson, Prime Sponsor; T. Scott Brandon, Olympic Peninsula Community Clinic; Dana Ralph, Mayor of the City of Kent; Armondo Pavone, Mayor, City of Renton; Candice Bock, Association of Washington Cities; Nancy Backus, City of Auburn, Mayor; Michael Held, Snohomish County Prosecuting Attorney's Office; Todd Morrell, Burien Police Department; Dan Templeman, Police Chief, City of Everett; Carolina Hershey, Arrest & Jail Alternatives, Olympia; Mayor Sean Kelly, City of Maple Valley; Michael Transue, WA Fraternal Order of Police.

CON: Don Julian; Gretchen McDevitt.

OTHER: Bob Cooper, WA Association of Drug Courts; Caleb Banta-Green, University of Washington- Addictions, Drug & Alcohol Institute; Anne Anderson, Washington State Narcotics Investigators Association; Vanessa Martin; Lisa Daugaard, Public Defender Association; Malika Lamont; Chad Enright, Kitsap County Prosecutor; Larry Jefferson, Washington State Office of Public Defense; James McMahan, WA Assoc Sheriffs & Police Chiefs; Adán Espino, WA Defender Assn/WA Assn of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.