

E2SSB 5536 - H AMD

By Representative Taylor

ADOPTED AND ENGROSSED 04/11/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that substance use
4 disorder is a treatable brain disease from which people can and do
5 recover. When individuals in active addiction are provided with
6 access to quality outreach, treatment, and recovery support services,
7 recovery is not only possible, but probable. Solutions to the
8 addiction crisis must not only address criminal legal responses, but
9 must be data-driven and evidence-based, and must represent public
10 health best practices, working directly with people who use drugs to
11 prevent overdose and infectious disease transmission, and improve the
12 physical, mental, and social well-being of those served. The state
13 must follow principles of harm reduction, comprising practical
14 strategies aimed at reducing negative consequences associated with
15 drug use, including safer use of supplies as well as care settings,
16 staffing, and interactions that are person-centered, supportive, and
17 welcoming.

18 The legislature recognizes that substance use disorder is
19 commonly treated in a variety of settings, including primary care,
20 addiction medicine, mental health agencies, and substance use
21 disorder treatment providers. Because medications such as
22 buprenorphine and methadone are the clinical best practice for the
23 treatment of opioid use disorder, individuals seeking treatment for
24 addiction to heroin, fentanyl, and other opioids frequently seek
25 recovery via primary care, addiction medicine, and opioid treatment
26 programs.

27 The legislature finds that the process of recovery, as described
28 by the national substance abuse and mental health administration, is
29 highly personal and occurs via many pathways. It may include clinical
30 treatment, medications, faith-based approaches, peer support, family
31 support, self-care, and other approaches. Recovery is characterized
32 by continual growth and improvement in one's health and wellness and

1 managing setbacks. Because setbacks are a natural part of life,
2 resilience becomes a key component of recovery.

3 The legislature finds that the recommendations of the substance
4 use recovery services advisory committee reflect diligent work by
5 individuals with a range of professional and personal experience, who
6 brought that experience to the committee, and whose expertise is
7 reflected in the recommendations.

8 **Part I - Prohibiting Knowing Possession of a Controlled Substance,**
9 **Counterfeit Substance, or Legend Drug**

10 **Sec. 2.** RCW 69.50.4011 and 2003 c 53 s 332 are each amended to
11 read as follows:

12 (1) Except as authorized by this chapter, it is unlawful for any
13 person to ~~((create, deliver, or possess a counterfeit substance))~~:

14 (a) Create or deliver a counterfeit substance;

15 (b) Knowingly possess a counterfeit substance; or

16 (c) Knowingly possess and use a counterfeit substance in a public
17 place by injection, inhalation, ingestion, or any other means.

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

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

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

29 (c) Any other counterfeit substance classified in Schedule I, II,
30 or III, is guilty of a class C felony punishable according to chapter
31 9A.20 RCW;

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

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

37 (3)(a) A violation of subsection (1)(b) or (c) of this section is
38 a misdemeanor. The prosecutor is encouraged to divert such cases for

1 assessment, treatment, or other services through the recovery
2 navigator program established under RCW 71.24.115 or a comparable
3 program including, but not limited to, arrest and jail alternative
4 programs established under RCW 36.28A.450 and law enforcement
5 assisted diversion programs established under RCW 71.24.589.

6 (b) In lieu of jail booking and referral to the prosecutor, law
7 enforcement is encouraged to offer a referral to assessment and
8 services available under RCW 10.31.110 or other program or entity
9 responsible for receiving referrals in lieu of legal system
10 involvement, which may include, but are not limited to, arrest and
11 jail alternative programs established under RCW 36.28A.450, law
12 enforcement assisted diversion programs established under RCW
13 71.24.589, and the recovery navigator program established under RCW
14 71.24.115.

15 (c) For the purposes of this section, "public place" has the same
16 meaning as defined in RCW 66.04.010, but the exclusions in RCW
17 66.04.011 do not apply.

18 **Sec. 3.** RCW 69.50.4013 and 2022 c 16 s 86 are each amended to
19 read as follows:

20 (1) ~~((††))~~ Except as otherwise authorized by this chapter, it is
21 unlawful for any person to:

22 (a) Knowingly possess a controlled substance unless the substance
23 was obtained directly from, or pursuant to, a valid prescription or
24 order of a practitioner while acting in the course of his or her
25 professional practice(~~(, or except as otherwise authorized by this~~
26 chapter)); or

27 (b) Knowingly possess and use a controlled substance in a public
28 place by injection, inhalation, ingestion, or any other means, unless
29 the substance was obtained directly from, or pursuant to, a valid
30 prescription or order of a practitioner while acting in the course of
31 his or her professional practice.

32 (2) (a) Except as provided in RCW 69.50.4014 or 69.50.445, ((any
33 person who violates this section is guilty of a class C felony
34 punishable under chapter 9A.20 RCW)) a violation of subsection (1)(a)
35 or (b) of this section is a misdemeanor. The prosecutor is encouraged
36 to divert such cases for assessment, treatment, or other services
37 through the recovery navigator program established under RCW
38 71.24.115 or a comparable program including, but not limited to,
39 arrest and jail alternative programs established under RCW 36.28A.450

1 and law enforcement assisted diversion programs established under RCW
2 71.24.589.

3 (b) In lieu of jail booking and referral to the prosecutor, law
4 enforcement is encouraged to offer a referral to assessment and
5 services available under RCW 10.31.110 or other program or entity
6 responsible for receiving referrals in lieu of legal system
7 involvement, which may include, but are not limited to, arrest and
8 jail alternative programs established under RCW 36.28A.450, law
9 enforcement assisted diversion programs established under RCW
10 71.24.589, and the recovery navigator program established under RCW
11 71.24.115.

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

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

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

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

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

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

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

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

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

15 (7) For the purposes of this section, "public place" has the same
16 meaning as defined in RCW 66.04.010, but the exclusions in RCW
17 66.04.011 do not apply.

18 **Sec. 4.** RCW 69.50.4014 and 2022 c 16 s 88 are each amended to
19 read as follows:

20 (1) Except as provided in RCW 69.50.401(2)(c) or as otherwise
21 authorized by this chapter, any person found guilty of knowing
22 possession of (~~(forty)~~) 40 grams or less of cannabis is guilty of a
23 misdemeanor. The prosecutor is encouraged to divert such cases for
24 assessment, treatment, or other services through the recovery
25 navigator program established under RCW 71.24.115 or a comparable
26 program including, but not limited to, arrest and jail alternative
27 programs established under RCW 36.28A.450 and law enforcement
28 assisted diversion programs established under RCW 71.24.589.

29 (2) In lieu of jail booking and referral to the prosecutor, law
30 enforcement is encouraged to offer a referral to assessment and
31 services available under RCW 10.31.110 or other program or entity
32 responsible for receiving referrals in lieu of legal system
33 involvement, which may include, but are not limited to, arrest and
34 jail alternative programs established under RCW 36.28A.450, law
35 enforcement assisted diversion programs established under RCW
36 71.24.589, and the recovery navigator program established under RCW
37 71.24.115.

1 **Sec. 5.** RCW 69.41.030 and 2020 c 80 s 41 are each amended to
2 read as follows:

3 (1) It shall be unlawful for any person to sell(~~(7)~~) or deliver
4 any legend drug, or knowingly possess any legend drug, or knowingly
5 possess and use any legend drug in a public place by injection,
6 inhalation, ingestion, or any other means, except upon the order or
7 prescription of a physician under chapter 18.71 RCW, an osteopathic
8 physician and surgeon under chapter 18.57 RCW, an optometrist
9 licensed under chapter 18.53 RCW who is certified by the optometry
10 board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a
11 podiatric physician and surgeon under chapter 18.22 RCW, a
12 veterinarian under chapter 18.92 RCW, a commissioned medical or
13 dental officer in the United States armed forces or public health
14 service in the discharge of his or her official duties, a duly
15 licensed physician or dentist employed by the veterans administration
16 in the discharge of his or her official duties, a registered nurse or
17 advanced registered nurse practitioner under chapter 18.79 RCW when
18 authorized by the nursing care quality assurance commission, a
19 pharmacist licensed under chapter 18.64 RCW to the extent permitted
20 by drug therapy guidelines or protocols established under RCW
21 18.64.011 and authorized by the commission and approved by a
22 practitioner authorized to prescribe drugs, a physician assistant
23 under chapter 18.71A RCW when authorized by the Washington medical
24 commission, or any of the following professionals in any province of
25 Canada that shares a common border with the state of Washington or in
26 any state of the United States: A physician licensed to practice
27 medicine and surgery or a physician licensed to practice osteopathic
28 medicine and surgery, a dentist licensed to practice dentistry, a
29 podiatric physician and surgeon licensed to practice podiatric
30 medicine and surgery, a licensed advanced registered nurse
31 practitioner, a licensed physician assistant, or a veterinarian
32 licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the
33 above provisions shall not apply to sale, delivery, or possession by
34 drug wholesalers or drug manufacturers, or their agents or employees,
35 or to any practitioner acting within the scope of his or her license,
36 or to a common or contract carrier or warehouse operator, or any
37 employee thereof, whose possession of any legend drug is in the usual
38 course of business or employment: PROVIDED FURTHER, That nothing in
39 this chapter or chapter 18.64 RCW shall prevent a family planning
40 clinic that is under contract with the health care authority from

1 selling, delivering, possessing, and dispensing commercially
2 prepackaged oral contraceptives prescribed by authorized, licensed
3 health care practitioners: PROVIDED FURTHER, That nothing in this
4 chapter prohibits possession or delivery of legend drugs by an
5 authorized collector or other person participating in the operation
6 of a drug take-back program authorized in chapter 69.48 RCW.

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

10 (b) A violation of this section involving knowing possession is a
11 misdemeanor. The prosecutor is encouraged to divert such cases for
12 assessment, treatment, or other services.

13 (c) A violation of this section involving knowing possession and
14 use in a public place is a misdemeanor. The prosecutor is encouraged
15 to divert such cases for assessment, treatment, or other services
16 through the recovery navigator program established under RCW
17 71.24.115 or a comparable program including, but not limited to,
18 arrest and jail alternative programs established under RCW 36.28A.450
19 and law enforcement assisted diversion programs established under RCW
20 71.24.589.

21 (d) In lieu of jail booking and referral to the prosecutor for a
22 violation of this section involving knowing possession, or knowing
23 possession and use in a public place, law enforcement is encouraged
24 to offer a referral to assessment and services available under RCW
25 10.31.110 or other program or entity responsible for receiving
26 referrals in lieu of legal system involvement, which may include, but
27 are not limited to, arrest and jail alternative programs established
28 under RCW 36.28A.450, law enforcement assisted diversion programs
29 established under RCW 71.24.589, and the recovery navigator program
30 established under RCW 71.24.115.

31 (3) For the purposes of this section, "public place" has the same
32 meaning as defined in RCW 66.04.010, but the exclusions in RCW
33 66.04.011 do not apply.

34 **Sec. 6.** RCW 69.50.509 and 1987 c 202 s 228 are each amended to
35 read as follows:

36 If, upon the sworn complaint of any person, it shall be made to
37 appear to any judge of the superior court, district court, or
38 municipal court that there is probable cause to believe that any
39 controlled substance is being used, manufactured, sold, bartered,

1 exchanged, administered, dispensed, delivered, distributed, produced,
2 knowingly possessed, given away, furnished or otherwise disposed of
3 or kept in violation of the provisions of this chapter, such judge
4 shall, with or without the approval of the prosecuting attorney,
5 issue a warrant directed to any law enforcement officer of the state,
6 commanding him or her to search the premises designated and described
7 in such complaint and warrant, and to seize all controlled substances
8 there found, together with the vessels in which they are contained,
9 and all implements, furniture and fixtures used or kept for the
10 illegal manufacture, sale, barter, exchange, administering,
11 dispensing, delivering, distributing, producing, possessing, giving
12 away, furnishing or otherwise disposing of such controlled
13 substances, and to safely keep the same, and to make a return of said
14 warrant within three days, showing all acts and things done
15 thereunder, with a particular statement of all articles seized and
16 the name of the person or persons in whose possession the same were
17 found, if any, and if no person be found in the possession of said
18 articles, the returns shall so state. The provisions of RCW 10.31.030
19 as now or hereafter amended shall apply to actions taken pursuant to
20 this chapter.

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.43
22 RCW to read as follows:

23 Subject to the availability of funds appropriated for this
24 specific purpose, the Washington state patrol bureau of forensic
25 laboratory services shall aim to complete the necessary analysis for
26 any evidence submitted for a suspected violation of RCW 69.50.4011(1)
27 (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) within
28 45 days of receipt of the request for analysis.

29 The Washington state patrol bureau of forensic laboratory
30 services' failure to comply with this section shall not constitute
31 grounds for dismissal of a criminal charge.

32 **Part II - Relating to Drug Paraphernalia**

33 **Sec. 8.** RCW 69.50.4121 and 2022 c 16 s 92 are each amended to
34 read as follows:

35 (1) Every person who sells (~~or gives,~~) or permits to be sold
36 (~~or given~~) to any person any drug paraphernalia in any form commits
37 a class I civil infraction under chapter 7.80 RCW. For purposes of

1 this subsection, "drug paraphernalia" means all equipment, products,
2 and materials of any kind which are used, intended for use, or
3 designed for use in planting, propagating, cultivating, growing,
4 harvesting, manufacturing, compounding, converting, producing,
5 processing, preparing, (~~testing, —analyzing,~~) packaging,
6 repackaging, storing, containing, concealing, injecting, ingesting,
7 inhaling, or otherwise introducing into the human body a controlled
8 substance other than cannabis. Drug paraphernalia includes, but is
9 not limited to objects used, intended for use, or designed for use in
10 ingesting, inhaling, or otherwise introducing cocaine into the human
11 body, such as:

12 (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic
13 pipes with or without screens, permanent screens, hashish heads, or
14 punctured metal bowls;

15 (b) Water pipes;

16 (c) Carburetion tubes and devices;

17 (d) Smoking and carburetion masks;

18 (e) Miniature cocaine spoons and cocaine vials;

19 (f) Chamber pipes;

20 (g) Carburetor pipes;

21 (h) Electric pipes;

22 (i) Air-driven pipes; and

23 (j) Ice pipes or chillers.

24 (2) It shall be no defense to a prosecution for a violation of
25 this section that the person acted, or was believed by the defendant
26 to act, as agent or representative of another.

27 (3) Nothing in subsection (1) of this section prohibits (~~legal~~)
28 distribution (~~of injection~~) or use of public health supplies
29 including, but not limited to, syringe equipment or drug testing
30 equipment, through public health (~~and~~) programs, community-based
31 HIV prevention programs, outreach, shelter, and housing programs, and
32 pharmacies. Public health and syringe service program staff taking
33 samples of substances and using drug testing equipment for the
34 purpose of analyzing the composition of the substances or detecting
35 the presence of certain substances are acting legally and are exempt
36 from arrest and prosecution under RCW 69.50.4011(1) (b) or (c),
37 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c).

38 NEW SECTION. Sec. 9. A new section is added to chapter 69.50
39 RCW to read as follows:

1 The state of Washington hereby fully occupies and preempts the
2 entire field of drug paraphernalia regulation within the boundaries
3 of the state including regulation of the use, selling, giving,
4 delivery, and possession of drug paraphernalia. Cities, towns, and
5 counties or other municipalities may enact only those laws and
6 ordinances relating to drug paraphernalia that are specifically
7 authorized by state law and are consistent with this chapter. Such
8 local ordinances must have the same penalty as provided for by state
9 law. Local laws and ordinances that are inconsistent with, more
10 restrictive than, or exceed the requirements of state law may not be
11 enacted and are preempted and repealed, regardless of the nature of
12 the code, charter, or home rule status of such city, town, county, or
13 municipality.

14 **Part III - Providing Opportunities for Pretrial Diversion and**
15 **Vacating Convictions**

16 NEW SECTION. **Sec. 10.** A new section is added to chapter 69.50
17 RCW to read as follows:

18 (1) Nothing in this section prevents the defendant, with the
19 consent of the prosecuting attorney as required by RCW 2.30.030, from
20 seeking to resolve charges under RCW 69.50.4011(1) (b) or (c),
21 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) through available
22 therapeutic courts or other alternatives to prosecution. Nothing in
23 this section prevents the defendant or the prosecuting attorney from
24 seeking or agreeing to, or the court from ordering, any other
25 resolution of charges or terms of supervision that suit the
26 circumstances of the defendant's situation and advance stabilization,
27 recovery, crime reduction, and justice.

28 (2) Any defendant charged with a violation of RCW 69.50.4011(1)
29 (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) may
30 make a motion to participate in pretrial diversion and agree to waive
31 his or her right to a speedy trial if the motion is granted, subject
32 to the following:

33 (a) In any case where the defendant is only charged with a
34 violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or
35 69.41.030(2) (b) or (c), and the defendant has not been convicted of
36 any offenses committed after the effective date of this section, the
37 court shall grant the motion, continue the hearing, and refer the
38 defendant to an applicable program.

1 (b) In any case where the defendant does not meet the criteria
2 described in (a) of this subsection, the court may grant the motion,
3 continue the hearing, and refer the defendant to an applicable
4 program.

5 (c) In all cases, the court may not grant the motion unless the
6 prosecuting attorney consents to the defendant's participation in
7 pretrial diversion. The prosecuting attorney is strongly encouraged
8 to agree to diversion in any case where the defendant is only charged
9 with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013,
10 69.50.4014, or 69.41.030(2) (b) or (c), and in any case where the
11 only additional charge or charges against the defendant are for other
12 nonfelony offenses that are not crimes against persons.

13 (3) Prior to granting the defendant's motion to participate in
14 pretrial diversion under this section, the court shall provide the
15 defendant and the defendant's counsel with the following information:

16 (a) A full description of the procedures for pretrial diversion;

17 (b) A general explanation of the roles and authorities of the
18 probation department, the prosecuting attorney, the applicable
19 program, and the court in the process;

20 (c) A clear statement that the court may grant pretrial diversion
21 with respect to any offense under RCW 69.50.4011(1) (b) or (c),
22 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) that is charged,
23 provided that the defendant pleads not guilty to the charge or
24 charges and waives his or her right to a speedy trial, and that upon
25 the defendant's successful completion of pretrial diversion, as
26 specified in subsection (14) of this section, and motion of the
27 defendant, prosecuting attorney, court, or probation department, the
28 court must dismiss the charge or charges against the defendant;

29 (d) A clear statement that if the defendant has not made
30 substantial progress with treatment or services provided that are
31 appropriate to the defendant's circumstances or, if applicable,
32 community service, the prosecuting attorney may make a motion to
33 terminate pretrial diversion and schedule further proceedings as
34 otherwise provided in this section;

35 (e) An explanation of criminal record retention and disposition
36 resulting from participation in pretrial diversion and the
37 defendant's rights relative to answering questions about his or her
38 arrest and pretrial diversion following successful completion;

39 (f) A clear statement that under federal law it is unlawful for
40 any person who is an unlawful user of or addicted to any controlled

1 substance to ship or transport in interstate or foreign commerce, or
2 possess in or affecting commerce, any firearm or ammunition, or to
3 receive any firearm or ammunition which has been shipped or
4 transported in interstate or foreign commerce; and

5 (g) A clear statement that if the defendant's biopsychosocial
6 assessment results in a written report recommending no treatment or
7 services, completion of pretrial diversion will instead be based on
8 the defendant's completion of an amount of community service to be
9 determined by the court, but not to exceed 120 hours of community
10 service.

11 (4) If the court grants the defendant's motion to participate in
12 pretrial diversion, the defendant may waive his or her right to
13 counsel during the diversion period. A defendant who waives his or
14 her right to counsel may request to have counsel reappointed if the
15 prosecuting attorney makes a motion for termination from pretrial
16 diversion as described in subsection (13) of this section.

17 (5) The applicable program must make a written report to the
18 court stating its findings and recommendations after the
19 biopsychosocial assessment if the defendant decides to continue
20 pursuing pretrial diversion. The report shall be filed under seal
21 with the court, and a copy of the report shall be given to the
22 prosecuting attorney, defendant, and defendant's counsel. The report
23 and its copies are confidential and exempt from disclosure under
24 chapter 42.56 RCW. The court shall endeavor to avoid public
25 discussion of the circumstances, history, or diagnoses that could
26 stigmatize the defendant.

27 (6) Subject to the availability of funds appropriated for this
28 specific purpose, the biopsychosocial assessment and recommended
29 services or treatment must be provided at no cost for defendants who
30 have been found to be indigent by the court.

31 (7) Once the biopsychosocial assessment has been filed with the
32 court, if the report indicates the defendant has a substance use
33 disorder, the court shall inform the defendant that under federal law
34 the defendant may not possess any firearm or ammunition. The court
35 shall thereafter sign an order of ineligibility to possess firearms
36 as required by RCW 9.41.800 and shall require the defendant to
37 surrender all firearms in accordance with RCW 9.41.804.

38 (8) If the report recommends any treatment or services, the
39 applicable program shall provide the court with regular written
40 status updates on the defendant's progress on a schedule acceptable

1 to the court. The updates must be provided at least monthly and filed
2 under seal with the court, with copies given to the prosecuting
3 attorney, defendant, and defendant's counsel. The updates and their
4 copies are confidential and exempt from disclosure under chapter
5 42.56 RCW. The court shall endeavor to avoid public discussion of the
6 circumstances, history, or diagnoses that could stigmatize the
7 defendant.

8 (9) If the report does not recommend any treatment or services,
9 the defendant must instead complete an amount of community service as
10 determined by the court, but not to exceed 120 hours of community
11 service, in order to complete pretrial diversion.

12 (10) No statement, or any information procured therefrom relating
13 to the charge for which the defendant is receiving services, made by
14 the defendant to any treatment or service provider, that is made
15 during the course of any biopsychosocial assessment or services
16 provided by the applicable program, and before the reporting of the
17 findings and recommendations to the court, may be admissible in any
18 action or proceeding brought subsequent to the investigation.

19 (11) A defendant's participation in pretrial diversion under this
20 section does not constitute a conviction, a stipulation to facts, or
21 an admission of guilt for any purpose.

22 (12) At the time that pretrial diversion is granted, any bail
23 bond on file by or on behalf of the defendant must be exonerated, and
24 the court must enter an order so directing.

25 (13)(a) If it appears to the prosecuting attorney that the
26 defendant is not substantially complying with the recommended
27 treatment or services as reflected by a written status update from
28 the applicable program, or, if applicable, the defendant is not
29 completing the community service, the prosecuting attorney may make a
30 motion for termination from pretrial diversion.

31 (b) After notice to the defendant, the court must hold a hearing
32 to determine whether pretrial diversion shall be terminated.

33 (c) At the hearing, the court must consider the following
34 factors:

35 (i) The nature of the alleged noncompliance;

36 (ii) Whether the defendant received written notice of the
37 noncompliance;

38 (iii) Whether the noncompliance was willful in nature; and

39 (iv) Any other mitigating circumstances, including, but not
40 limited to, the defendant's efforts and due diligence, the

1 availability of services in the geographic area, and the treatment
2 and services offered to the defendant.

3 (d) The defendant shall have the right to present evidence at the
4 hearing, including the right to present a defense, present witnesses,
5 and cross-examine any witnesses.

6 (e) The prosecutor has the burden of establishing by clear and
7 convincing evidence that the noncompliance was willful, and that the
8 defendant should be terminated from pretrial diversion.

9 (f) If the court finds that the defendant is not substantially
10 complying with the recommended treatment or services or, if
11 applicable, the defendant is not completing the community service,
12 the court must schedule the matter for further proceedings.

13 (14) If the defendant successfully completes pretrial diversion,
14 including in one of the following ways, the charge or charges under
15 RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2)
16 (b) or (c) must be dismissed:

17 (a) If the written report prepared by the applicable program
18 included recommended treatment or services, the defendant
19 successfully completes pretrial diversion by having six months of
20 substantial compliance with assessment and recommended treatment or
21 services and progress toward recovery goals as reflected by a written
22 status update from the applicable program; or

23 (b) If the written report prepared by the applicable program did
24 not include recommended treatment or services, the defendant
25 successfully completes pretrial diversion by completing the community
26 service described under subsection (9) of this section and submitting
27 proof of completion to the court.

28 (15) Beginning January 1, 2024, the prosecuting attorney shall
29 input data and information in the statewide pretrial diversion
30 tracking and reporting system under section 14 of this act for each
31 case where the defendant participates in pretrial diversion under
32 this section, including but not limited to the following:

33 (a) Whether the pretrial diversion was terminated, was
34 successfully completed and resulted in a dismissal, or is still
35 ongoing;

36 (b) The race, ethnicity, gender, gender expression or identity,
37 disability status, and age of the defendant; and

38 (c) Any other appropriate data and information as determined by
39 the administrative office of the courts.

1 (16) The definitions in this subsection apply throughout this
2 section unless the context clearly requires otherwise.

3 (a) "Applicable program" means the recovery navigator program
4 established under RCW 71.24.115, arrest and jail alternative programs
5 established under RCW 36.28A.450, or law enforcement assisted
6 diversion programs established under RCW 71.24.589.

7 (b) "Substantial compliance" means a defendant actively engaging
8 with or making himself or herself available to treatment and
9 services. The defendant is not in substantial compliance if he or she
10 willfully abandons treatment and services.

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 69.50
12 RCW to read as follows:

13 (1) Prior to sentencing any person convicted of violating RCW
14 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b)
15 or (c), the court shall inform the person that under federal law it
16 is unlawful for any person who is an unlawful user of or addicted to
17 any controlled substance to ship or transport in interstate or
18 foreign commerce, or possess in or affecting commerce, any firearm or
19 ammunition, or to receive any firearm or ammunition which has been
20 shipped or transported in interstate or foreign commerce.

21 (2) In courts of limited jurisdiction, if an individual who is
22 convicted of a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013,
23 69.50.4014, or 69.41.030(2) (b) or (c) agrees as a condition of
24 probation to obtain a biopsychosocial assessment by an applicable
25 program and participate in any recommended treatment or services, or,
26 if the applicable program recommends no treatment or services, to
27 complete court-ordered community service, the court shall sentence
28 the individual to a term of confinement of up to 90 days, all of
29 which shall be suspended for a period not to exceed two years.

30 (3) A biopsychosocial assessment shall be prepared by an
31 applicable program. A copy of the assessment shall be forwarded to
32 the court and filed under seal. Based on the assessment, the court
33 shall determine whether the person shall be required to complete a
34 course in an alcohol and drug information school licensed or
35 certified by the department of health or more sustained services
36 provided by a licensed behavioral health care provider, peer
37 counseling program, or other case management program.

38 (a) Once the assessment has been filed with the court, if the
39 report indicates the individual has a substance use disorder, the

1 court shall inform the individual that under federal law the
2 individual may not possess any firearm or ammunition. The court shall
3 thereafter sign an order of ineligibility to possess firearms as
4 required by RCW 9.41.800.

5 (b) Once the assessment has been filed with the court, if the
6 report does not recommend any treatment or services, the court shall
7 order the defendant to complete an amount of community service not to
8 exceed 120 hours as a term of probation.

9 (c) The assessment shall include the following:

10 (i) Available background on the defendant's circumstances,
11 barriers, and past service history, if any;

12 (ii) Nature of barriers and challenges;

13 (iii) Recommendations for services available in the individual's
14 community that are likely to work with the individual and provide
15 relevant support;

16 (iv) A statement of unavailability if there are no known suitable
17 services presently available in the individual's community that would
18 meaningfully assist the individual; and

19 (v) Approximate cost of the services if not publicly provided.

20 (4) A person subject to biopsychosocial assessment and treatment
21 or services shall be required by the court to substantially comply
22 with more sustained services provided by a licensed behavioral health
23 care provider, peer counseling program, or other case management
24 program, as determined by the court.

25 (5) If the court directs a service plan after receiving an
26 individual's assessment, the applicable program must provide the
27 court with regular written status updates on the individual's
28 progress on a schedule acceptable to the court. The updates must be
29 provided at least monthly and filed under seal with the court, with
30 copies given to the prosecuting attorney, the individual, and the
31 individual's counsel. The updates and their copies are confidential
32 and exempt from disclosure under chapter 42.56 RCW. The court shall
33 endeavor to avoid public discussion of the circumstances, history, or
34 diagnoses that could stigmatize the individual.

35 (6) Subject to the availability of funds appropriated for this
36 purpose, the recommended treatment or services as ordered by the
37 court shall be provided at no cost for sentenced individuals who have
38 been found to be indigent by the court.

1 (7) As a condition of probation, the sentenced individual must
2 substantially comply with the treatment or services recommendations
3 of the biopsychosocial assessment.

4 (8)(a) If it appears to the prosecuting attorney that the
5 sentenced individual is not substantially complying with the
6 recommended treatment or services as reflected by a written status
7 update from the applicable program, or, if applicable, the individual
8 is not completing the court-ordered community service, the
9 prosecuting attorney shall make a motion for a hearing to consider
10 sanctions. After notice to the sentenced individual, the court shall
11 hold a hearing to determine if a sanction or revocation of the
12 individual's suspended sentence, or any part thereof, is warranted
13 under RCW 3.50.340 or 3.66.069.

14 (b) At the hearing, the court must consider the following
15 factors:

16 (i) The nature of the alleged noncompliance;

17 (ii) Whether the individual received written notice of the
18 noncompliance;

19 (iii) Whether the noncompliance was willful in nature; and

20 (iv) Any other mitigating circumstances, including, but not
21 limited to, the individual's efforts and due diligence, the
22 availability of services in the geographic area, and the treatment
23 and services offered to the individual.

24 (c) The individual shall have the right to present evidence at
25 the hearing, including the right to present a defense, present
26 witnesses, and cross-examine any witnesses.

27 (d) The prosecutor has the burden of establishing by clear and
28 convincing evidence that the noncompliance was willful, and that the
29 individual should be sanctioned.

30 (e) The court may not sanction an individual for failing to
31 comply with the recommended treatment or services if the court finds
32 the sentenced individual has made reasonable efforts to comply with
33 the recommended treatment but cannot comply either due to a lack of
34 available treatment or services or, for sentenced individuals found
35 to be indigent by the court, due to a lack of funding for treatment
36 or services.

37 (f) At the hearing, if the court finds by clear and convincing
38 evidence that the sentenced individual has willfully abandoned or
39 demonstrated a consistent failure to substantially comply with the
40 recommended treatment or services, or, if applicable, is failing to

1 complete the court-ordered community service, the court shall use its
2 discretion in determining an appropriate sanction.

3 (9) An individual sentenced under subsection (2) of this section
4 may vacate their conviction for a violation of RCW 69.50.4011(1) (b)
5 or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) as
6 follows:

7 (a) If the individual has six months of substantial compliance
8 with assessment and recommended treatment or services and progress
9 toward recovery goals as reflected by a written status update from
10 the applicable program, or, if applicable, the individual completes
11 the court-ordered community service and files proof of completion
12 with the court, the prosecutor shall make a motion to vacate the
13 person's conviction or convictions and, upon verification of the
14 written status update or the proof of completion of community
15 service, the court shall terminate probation and enter an order
16 vacating the individual's conviction; or

17 (b) If the individual has had no additional arrests, charges, or
18 criminal convictions in the two years after the individual's
19 conviction for a violation of RCW 69.50.4011(1) (b) or (c),
20 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), the prosecutor
21 shall make a motion to the court to vacate the individual's
22 conviction, and the court shall terminate probation and enter an
23 order vacating the individual's conviction.

24 (10) The definitions in this subsection apply throughout this
25 section unless the context clearly requires otherwise.

26 (a) "Applicable program" means the recovery navigator program
27 established under RCW 71.24.115, arrest and jail alternative programs
28 established under RCW 36.28A.450, or law enforcement assisted
29 diversion programs established under RCW 71.24.589.

30 (b) "Substantial compliance" means an individual actively
31 engaging with or making himself or herself available to treatment and
32 services. The individual is not in substantial compliance if he or
33 she willfully abandons treatment and services.

34 **Sec. 12.** RCW 9.96.060 and 2022 c 16 s 7 are each amended to read
35 as follows:

36 (1) When vacating a conviction under this section, the court
37 effectuates the vacation by: (a)(i) Permitting the applicant to
38 withdraw the applicant's plea of guilty and to enter a plea of not
39 guilty; or (ii) if the applicant has been convicted after a plea of

1 not guilty, the court setting aside the verdict of guilty; and (b)
2 the court dismissing the information, indictment, complaint, or
3 citation against the applicant and vacating the judgment and
4 sentence.

5 (2) Every person convicted of a misdemeanor or gross misdemeanor
6 offense may apply to the sentencing court for a vacation of the
7 applicant's record of conviction for the offense. If the court finds
8 the applicant meets the requirements of this subsection, the court
9 may in its discretion vacate the record of conviction. Except as
10 provided in subsections (3), (4), ~~((and))~~ (5), and (6) of this
11 section and section 11 of this act, an applicant may not have the
12 record of conviction for a misdemeanor or gross misdemeanor offense
13 vacated if any one of the following is present:

14 (a) The applicant has not completed all of the terms of the
15 sentence for the offense;

16 (b) There are any criminal charges against the applicant pending
17 in any court of this state or another state, or in any federal or
18 tribal court, at the time of application;

19 (c) The offense was a violent offense as defined in RCW 9.94A.030
20 or an attempt to commit a violent offense;

21 (d) The offense was a violation of RCW 46.61.502 (driving while
22 under the influence), 46.61.504 (actual physical control while under
23 the influence), 9.91.020 (operating a railroad, etc. while
24 intoxicated), or the offense is considered a "prior offense" under
25 RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug
26 violation within ten years of the date of arrest for the prior
27 offense or less than ten years has elapsed since the date of the
28 arrest for the prior offense;

29 (e) The offense was any misdemeanor or gross misdemeanor
30 violation, including attempt, of chapter 9.68 RCW (obscenity and
31 pornography), chapter 9.68A RCW (sexual exploitation of children), or
32 chapter 9A.44 RCW (sex offenses), except for failure to register as a
33 sex offender under RCW 9A.44.132;

34 (f) The applicant was convicted of a misdemeanor or gross
35 misdemeanor offense as defined in RCW 10.99.020, or the court
36 determines after a review of the court file that the offense was
37 committed by one family or household member against another or by one
38 intimate partner against another, or the court, after considering the
39 damage to person or property that resulted in the conviction, any
40 prior convictions for crimes defined in RCW 10.99.020, or for

1 comparable offenses in another state or in federal court, and the
2 totality of the records under review by the court regarding the
3 conviction being considered for vacation, determines that the offense
4 involved domestic violence, and any one of the following factors
5 exist:

6 (i) The applicant has not provided written notification of the
7 vacation petition to the prosecuting attorney's office that
8 prosecuted the offense for which vacation is sought, or has not
9 provided that notification to the court;

10 (ii) The applicant has two or more domestic violence convictions
11 stemming from different incidents. For purposes of this subsection,
12 however, if the current application is for more than one conviction
13 that arose out of a single incident, none of those convictions counts
14 as a previous conviction;

15 (iii) The applicant has signed an affidavit under penalty of
16 perjury affirming that the applicant has not previously had a
17 conviction for a domestic violence offense, and a criminal history
18 check reveals that the applicant has had such a conviction; or

19 (iv) Less than five years have elapsed since the person completed
20 the terms of the original conditions of the sentence, including any
21 financial obligations and successful completion of any treatment
22 ordered as a condition of sentencing;

23 (g) For any offense other than those described in (f) of this
24 subsection, less than three years have passed since the person
25 completed the terms of the sentence, including any financial
26 obligations;

27 (h) The offender has been convicted of a new crime in this state,
28 another state, or federal or tribal court in the three years prior to
29 the vacation application; or

30 (i) The applicant is currently restrained by a domestic violence
31 protection order, a no-contact order, an antiharassment order, or a
32 civil restraining order which restrains one party from contacting the
33 other party or was previously restrained by such an order and was
34 found to have committed one or more violations of the order in the
35 five years prior to the vacation application.

36 (3) If the applicant is a victim of sex trafficking,
37 prostitution, or commercial sexual abuse of a minor; sexual assault;
38 or domestic violence as defined in RCW 9.94A.030, or the prosecutor
39 applies on behalf of the state, the sentencing court may vacate the
40 record of conviction if the application satisfies the requirements of

1 RCW 9.96.080. When preparing or filing the petition, the prosecutor
2 is not deemed to be providing legal advice or legal assistance on
3 behalf of the victim, but is fulfilling an administrative function on
4 behalf of the state in order to further their responsibility to seek
5 to reform and improve the administration of criminal justice. A
6 record of conviction vacated using the process in RCW 9.96.080 is
7 subject to subsections (~~((6) and~~) (7) and (8) of this section.

8 (4) Every person convicted prior to January 1, 1975, of violating
9 any statute or rule regarding the regulation of fishing activities,
10 including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070,
11 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240
12 who claimed to be exercising a treaty Indian fishing right, may apply
13 to the sentencing court for vacation of the applicant's record of the
14 misdemeanor, gross misdemeanor, or felony conviction for the offense.
15 If the person is deceased, a member of the person's family or an
16 official representative of the tribe of which the person was a member
17 may apply to the court on behalf of the deceased person.
18 Notwithstanding the requirements of RCW 9.94A.640, the court shall
19 vacate the record of conviction if:

20 (a) The applicant is a member of a tribe that may exercise treaty
21 Indian fishing rights at the location where the offense occurred; and

22 (b) The state has been enjoined from taking enforcement action of
23 the statute or rule to the extent that it interferes with a treaty
24 Indian fishing right as determined under *United States v. Washington*,
25 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp.
26 899 (D. Oregon 1969), and any posttrial orders of those courts, or
27 any other state supreme court or federal court decision.

28 (5) Every person convicted of a misdemeanor cannabis offense, who
29 was (~~(twenty-one)~~) 21 years of age or older at the time of the
30 offense, may apply to the sentencing court for a vacation of the
31 applicant's record of conviction for the offense. A misdemeanor
32 cannabis offense includes, but is not limited to: Any offense under
33 RCW 69.50.4014, from July 1, 2004, onward, and its predecessor
34 statutes, including RCW 69.50.401(e), from March 21, 1979, to July 1,
35 2004, and RCW 69.50.401(d), from May 21, 1971, to March 21, 1979, and
36 any offense under an equivalent municipal ordinance. If an applicant
37 qualifies under this subsection, the court shall vacate the record of
38 conviction.

39 (6) If a person convicted of violating RCW 69.50.4011(1) (b) or
40 (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) has had no

1 additional criminal arrests, charges, or convictions in the two years
2 after the person's conviction or convictions for violating RCW
3 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b)
4 or (c), the prosecutor shall make a motion to vacate the individual's
5 conviction or convictions, and the court shall grant the motion and
6 enter an order vacating the individual's conviction or convictions.

7 (7) A person who is a family member of a homicide victim may
8 apply to the sentencing court on the behalf of the victim for
9 vacation of the victim's record of conviction for prostitution under
10 RCW 9A.88.030. If an applicant qualifies under this subsection, the
11 court shall vacate the victim's record of conviction.

12 ~~((7))~~ (8)(a) Except as provided in (c) of this subsection, once
13 the court vacates a record of conviction under this section, the
14 person shall be released from all penalties and disabilities
15 resulting from the offense and the fact that the person has been
16 convicted of the offense shall not be included in the person's
17 criminal history for purposes of determining a sentence in any
18 subsequent conviction. For all purposes, including responding to
19 questions on employment or housing applications, a person whose
20 conviction has been vacated under this section may state that he or
21 she has never been convicted of that crime. However, nothing in this
22 section affects the requirements for restoring a right to possess a
23 firearm under RCW 9.41.040. Except as provided in (b) of this
24 subsection, nothing in this section affects or prevents the use of an
25 offender's prior conviction in a later criminal prosecution.

26 (b) When a court vacates a record of domestic violence as defined
27 in RCW 10.99.020 under this section, the state may not use the
28 vacated conviction in a later criminal prosecution unless the
29 conviction was for: (i) Violating the provisions of a restraining
30 order, no-contact order, or protection order restraining or enjoining
31 the person or restraining the person from going on to the grounds of
32 or entering a residence, workplace, school, or day care, or
33 prohibiting the person from knowingly coming within, or knowingly
34 remaining within, a specified distance of a location, a protected
35 party's person, or a protected party's vehicle (RCW 10.99.040,
36 10.99.050, 26.09.300, 26.26B.050, 26.44.063, 26.44.150, or 26.52.070,
37 or any of the former RCW 26.50.060, 26.50.070, 26.50.130, and
38 74.34.145); (ii) stalking (RCW 9A.46.110); or (iii) a domestic
39 violence protection order or vulnerable adult protection order
40 entered under chapter 7.105 RCW. A vacated conviction under this

1 section is not considered a conviction of such an offense for the
2 purposes of 27 C.F.R. 478.11.

3 (c) A conviction vacated on or after July 28, 2019, qualifies as
4 a prior conviction for the purpose of charging a present recidivist
5 offense as defined in RCW 9.94A.030 occurring on or after July 28,
6 2019.

7 (~~(8)~~) (9) The clerk of the court in which the vacation order is
8 entered shall immediately transmit the order vacating the conviction
9 to the Washington state patrol identification section and to the
10 local police agency, if any, which holds criminal history information
11 for the person who is the subject of the conviction. The Washington
12 state patrol and any such local police agency shall immediately
13 update their records to reflect the vacation of the conviction, and
14 shall transmit the order vacating the conviction to the federal
15 bureau of investigation. A conviction that has been vacated under
16 this section may not be disseminated or disclosed by the state patrol
17 or local law enforcement agency to any person, except other criminal
18 justice enforcement agencies.

19 (~~(9)~~) (10) For the purposes of this section, "cannabis" has the
20 meaning provided in RCW 69.50.101.

21 NEW SECTION. **Sec. 13.** A new section is added to chapter 2.56
22 RCW to read as follows:

23 (1) The administrative office of the courts shall collect data
24 and information related to the utilization and outcomes of pretrial
25 diversions pursuant to section 10 of this act, convictions pursuant
26 to section 11 of this act, and motions for vacating convictions
27 pursuant to RCW 9.96.060(6), including but not limited to the
28 following:

29 (a) The recidivism rate for persons who either participated in a
30 pretrial diversion pursuant to section 10 of this act, or who were
31 sentenced pursuant to section 11 of this act and agreed as a
32 condition of probation to obtain a biopsychosocial assessment and
33 participate in recommended treatment or services;

34 (b) The number of pretrial diversions granted pursuant to section
35 10 of this act and whether such diversions were terminated, were
36 successfully completed and resulted in a dismissal, or are still
37 ongoing;

1 (c) The number of people convicted of a violation of RCW
2 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b)
3 or (c);

4 (d) Statistical data comparing the sentences imposed pursuant to
5 section 11 of this act, and the convictions vacated pursuant to RCW
6 9.96.060(6), in specific courts and in different regions of
7 Washington;

8 (e) The number of charged violations of RCW 69.50.4011(1) (b) or
9 (c), 69.50.4013, 69.50.4014, and 69.41.030(2) (b) or (c) involving
10 repeat offenders; and

11 (f) The number of charged violations of RCW 69.50.4011(1) (b) or
12 (c), 69.50.4013, 69.50.4014, and 69.41.030(2) (b) or (c) involving
13 persons who previously participated in pretrial diversion pursuant to
14 section 10 of this act, or who were previously sentenced pursuant to
15 section 11 of this act and agreed as a condition of probation to
16 obtain a biopsychosocial assessment and participate in recommended
17 treatment or services.

18 (2) Beginning January 1, 2024, the administrative office of the
19 courts shall collect the following additional data and information
20 from the statewide pretrial diversion tracking and reporting system
21 created under section 14 of this act:

22 (a) Aggregated and disaggregated demographic data for pretrial
23 diversions under section 10 of this act, that identifies trends or
24 disparities in utilization or outcomes based on race, ethnicity,
25 gender, gender expression or identity, disability status, age, and
26 any other appropriate characteristics as determined by the
27 administrative office of the courts; and

28 (b) Statistical data comparing the relative utilization and
29 outcomes of pretrial diversions pursuant to section 10 of this act in
30 specific courts and in different regions of Washington.

31 (3) Beginning August 1, 2024, and on August 1st of every year
32 thereafter, the administrative office of the courts shall submit an
33 annual report to the legislature containing the data and information
34 described in subsections (1) and (2) of this section.

35 (4) For the purposes of this section, "recidivism" means a
36 person's subsequent conviction for any criminal offense within three
37 years of the person successfully completing a pretrial diversion
38 under section 10 of this act, or completing the terms of a sentence
39 under section 11 of this act where the person agreed as a condition

1 of probation to obtain a biopsychosocial assessment and participate
2 in recommended treatment or services.

3 NEW SECTION. **Sec. 14.** A new section is added to chapter 2.56
4 RCW to read as follows:

5 (1) By January 1, 2024, subject to the availability of funds
6 appropriated for this specific purpose, the administrative office of
7 the courts shall establish and maintain a statewide pretrial
8 diversion tracking and reporting system for pretrial diversions under
9 section 10 of this act.

10 (2) The system must allow prosecuting attorneys to input data and
11 information related to the utilization and outcomes of pretrial
12 diversions under section 10 of this act, including but not limited to
13 the following:

14 (a) Whether such diversions were terminated, were successfully
15 completed and resulted in a dismissal, or are still ongoing;

16 (b) The race, ethnicity, gender, gender expression or identity,
17 disability status, and age of defendants who participate in pretrial
18 diversion; and

19 (c) Any other appropriate data and information as determined by
20 the administrative office of the courts.

21 **Part IV - Opioid Treatment Rural Access and Expansion**

22 **Sec. 15.** RCW 36.70A.200 and 2021 c 265 s 2 are each amended to
23 read as follows:

24 (1)(a) The comprehensive plan of each county and city that is
25 planning under RCW 36.70A.040 shall include a process for identifying
26 and siting essential public facilities. Essential public facilities
27 include those facilities that are typically difficult to site, such
28 as airports, state education facilities and state or regional
29 transportation facilities as defined in RCW 47.06.140, regional
30 transit authority facilities as defined in RCW 81.112.020, state and
31 local correctional facilities, solid waste handling facilities,
32 opioid treatment programs including both mobile and fixed-site
33 medication units, recovery residences, harm reduction programs
34 excluding safe injection sites, and inpatient facilities including
35 substance ((~~abuse~~)) use disorder treatment facilities, mental health
36 facilities, group homes, community facilities as defined in RCW

1 72.05.020, and secure community transition facilities as defined in
2 RCW 71.09.020.

3 (b) Unless a facility is expressly listed in (a) of this
4 subsection, essential public facilities do not include facilities
5 that are operated by a private entity in which persons are detained
6 in custody under process of law pending the outcome of legal
7 proceedings but are not used for punishment, correction, counseling,
8 or rehabilitation following the conviction of a criminal offense.
9 Facilities included under this subsection (1)(b) shall not include
10 facilities detaining persons under RCW 71.09.020 (~~((6) or (15))~~) (7)
11 or (16) or chapter 10.77 or 71.05 RCW.

12 (c) The department of children, youth, and families may not
13 attempt to site new community facilities as defined in RCW 72.05.020
14 east of the crest of the Cascade mountain range unless there is an
15 equal or greater number of sited community facilities as defined in
16 RCW 72.05.020 on the western side of the crest of the Cascade
17 mountain range.

18 (d) For the purpose of this section, "harm reduction programs"
19 means programs that emphasize working directly with people who use
20 drugs to prevent overdose and infectious disease transmission,
21 improve the physical, mental, and social well-being of those served,
22 and offer low threshold options for accessing substance use disorder
23 treatment and other services.

24 (2) Each county and city planning under RCW 36.70A.040 shall, not
25 later than September 1, 2002, establish a process, or amend its
26 existing process, for identifying and siting essential public
27 facilities and adopt or amend its development regulations as
28 necessary to provide for the siting of secure community transition
29 facilities consistent with statutory requirements applicable to these
30 facilities.

31 (3) Any city or county not planning under RCW 36.70A.040 shall,
32 not later than September 1, 2002, establish a process for siting
33 secure community transition facilities and adopt or amend its
34 development regulations as necessary to provide for the siting of
35 such facilities consistent with statutory requirements applicable to
36 these facilities.

37 (4) The office of financial management shall maintain a list of
38 those essential state public facilities that are required or likely
39 to be built within the next six years. The office of financial
40 management may at any time add facilities to the list.

1 (5) No local comprehensive plan or development regulation may
2 preclude the siting of essential public facilities.

3 (6) No person may bring a cause of action for civil damages based
4 on the good faith actions of any county or city to provide for the
5 siting of secure community transition facilities in accordance with
6 this section and with the requirements of chapter 12, Laws of 2001
7 2nd sp. sess. For purposes of this subsection, "person" includes, but
8 is not limited to, any individual, agency as defined in RCW
9 42.17A.005, corporation, partnership, association, and limited
10 liability entity.

11 (7) Counties or cities siting facilities pursuant to subsection
12 (2) or (3) of this section shall comply with RCW 71.09.341.

13 (8) The failure of a county or city to act by the deadlines
14 established in subsections (2) and (3) of this section is not:

15 (a) A condition that would disqualify the county or city for
16 grants, loans, or pledges under RCW 43.155.070 or 70A.135.070;

17 (b) A consideration for grants or loans provided under RCW
18 43.17.250(3); or

19 (c) A basis for any petition under RCW 36.70A.280 or for any
20 private cause of action.

21 **Sec. 16.** RCW 71.24.589 and 2019 c 314 s 29 are each amended to
22 read as follows:

23 (1) Subject to funds appropriated by the legislature, the
24 authority shall ~~((implement a pilot project))~~ administer a grant
25 program for law enforcement assisted diversion which shall adhere to
26 law enforcement assisted diversion core principles recognized by the
27 law enforcement assisted diversion national support bureau, the
28 efficacy of which have been demonstrated in peer-reviewed research
29 studies.

30 (2) ~~((Under the pilot project, the))~~ The authority must partner
31 with the law enforcement assisted diversion national support bureau
32 to award ~~((a contract))~~ contracts, subject to appropriation, for
33 ~~((two or more geographic areas))~~ jurisdictions in the state of
34 Washington for law enforcement assisted diversion. Cities, counties,
35 and tribes ~~((may compete for participation in a pilot project)),~~
36 subdivisions thereof, public development authorities, and community-
37 based organizations demonstrating support from necessary public
38 partners, may serve as the lead agency applying for funding. Funds

1 may be used to scale existing projects, and to invite additional
2 jurisdictions to launch law enforcement assisted diversion programs.

3 (3) The (~~the pilot projects~~) program must provide for securing
4 comprehensive technical assistance from law enforcement assisted
5 diversion implementation experts to develop and implement a law
6 enforcement assisted diversion program (~~in the pilot project's~~
7 ~~geographic areas~~) in a way that ensures fidelity to the research-
8 based law enforcement assisted diversion model. Sufficient funds must
9 be allocated from grant program funds to secure technical assistance
10 for the authority and for the implementing jurisdictions.

11 (4) The key elements of a law enforcement assisted diversion
12 (~~the pilot project~~) program must include:

13 (a) Long-term case management for individuals with substance use
14 disorders;

15 (b) Facilitation and coordination with community resources
16 focusing on overdose prevention;

17 (c) Facilitation and coordination with community resources
18 focused on the prevention of infectious disease transmission;

19 (d) Facilitation and coordination with community resources
20 providing physical and behavioral health services;

21 (e) Facilitation and coordination with community resources
22 providing medications for the treatment of substance use disorders;

23 (f) Facilitation and coordination with community resources
24 focusing on housing, employment, and public assistance;

25 (g) (~~Twenty-four~~) 24 hours per day and seven days per week
26 response to law enforcement for arrest diversions; and

27 (h) Prosecutorial support for diversion services.

28 (5) No civil liability may be imposed by any court on the state
29 or its officers or employees, an appointed or elected official,
30 public employee, public agency as defined in RCW 4.24.470,
31 combination of units of government and its employees as provided in
32 RCW 36.28A.010, nonprofit community-based organization, tribal
33 government entity, tribal organization, or urban Indian organization,
34 based on the administration of a law enforcement assisted diversion
35 program or activities carried out within the purview of a grant
36 received under this program except upon proof of bad faith or gross
37 negligence.

38 **Sec. 17.** RCW 71.24.590 and 2019 c 314 s 30 are each amended to
39 read as follows:

1 (1) When making a decision on an application for licensing or
2 certification of ((a)) an opioid treatment program, the department
3 shall:

4 (a) Consult with the county legislative authorities in the area
5 in which an applicant proposes to locate a program and the city
6 legislative authority in any city in which an applicant proposes to
7 locate a program;

8 (b) License or certify only programs that will be sited in
9 accordance with the appropriate county or city land use ordinances.
10 Counties and cities may require conditional use permits with
11 reasonable conditions for the siting of programs only to the extent
12 that such reasonable conditional use requirements applied to opioid
13 treatment programs are similarly applied to other essential public
14 facilities and health care settings. Pursuant to RCW 36.70A.200, no
15 local comprehensive plan or development regulation may preclude the
16 siting of essential public facilities;

17 (c) Not discriminate in its licensing or certification decision
18 on the basis of the corporate structure of the applicant;

19 (d) Consider the size of the population in need of treatment in
20 the area in which the program would be located and license or certify
21 only applicants whose programs meet the necessary treatment needs of
22 that population;

23 (e) Consider the availability of other certified opioid treatment
24 programs near the area in which the applicant proposes to locate the
25 program;

26 (f) Consider the transportation systems that would provide
27 service to the program and whether the systems will provide
28 reasonable opportunities to access the program for persons in need of
29 treatment;

30 (g) Consider whether the applicant has, or has demonstrated in
31 the past, the capability to provide the appropriate services to
32 assist the persons who utilize the program in meeting goals
33 established by the legislature in RCW 71.24.585. The department shall
34 prioritize licensing or certification to applicants who have
35 demonstrated such capability and are able to measure their success in
36 meeting such outcomes((↗

37 ~~(h) Hold one public hearing in the community in which the~~
38 ~~facility is proposed to be located. The hearing shall be held at a~~
39 ~~time and location that are most likely to permit the largest number~~
40 ~~of interested persons to attend and present testimony. The department~~

1 shall notify all appropriate media outlets of the time, date, and
2 location of the hearing at least three weeks in advance of the
3 hearing)).

4 (2) ((A)) No city or county legislative authority may impose a
5 maximum capacity for ((a)) an opioid treatment program (~~of not less~~
6 ~~than three hundred fifty participants if necessary to address~~
7 ~~specific local conditions cited by the county~~)).

8 (3) A program applying for licensing or certification from the
9 department and a program applying for a contract from a state agency
10 that has been denied the licensing or certification or contract shall
11 be provided with a written notice specifying the rationale and
12 reasons for the denial.

13 (4) Opioid treatment programs may order, possess, dispense, and
14 administer medications approved by the United States food and drug
15 administration for the treatment of opioid use disorder, alcohol use
16 disorder, tobacco use disorder, and reversal of opioid overdose. For
17 an opioid treatment program to order, possess, and dispense any other
18 legend drug, including controlled substances, the opioid treatment
19 program must obtain additional licensure as required by the
20 department, except for patient-owned medications.

21 (5) Opioid treatment programs may accept, possess, and administer
22 patient-owned medications.

23 (6) Registered nurses and licensed practical nurses may dispense
24 up to a ((~~thirty-one~~)) 31 day supply of medications approved by the
25 United States food and drug administration for the treatment of
26 opioid use disorder to patients of the opioid treatment program,
27 under an order or prescription and in compliance with 42 C.F.R. Sec.
28 8.12.

29 (7) For the purpose of this chapter, "opioid treatment program"
30 means a program that:

31 (a) Engages in the treatment of opioid use disorder with
32 medications approved by the United States food and drug
33 administration for the treatment of opioid use disorder and reversal
34 of opioid overdose, including methadone; and

35 (b) Provides a comprehensive range of medical and rehabilitative
36 services.

37 (8) A mobile or fixed-site medication unit may be established as
38 part of a licensed opioid treatment program.

1 NEW SECTION. **Sec. 18.** A new section is added to chapter 43.330
2 RCW to read as follows:

3 (1) Subject to funds appropriated for this specific purpose, a
4 program is established in the department to fund the construction
5 costs necessary to start up substance use disorder treatment and
6 services programs and recovery housing in regions of the state that
7 currently lack access to such programs.

8 (2) This funding must be used to increase the number of substance
9 use disorder treatment and services programs and recovery housing in
10 underserved areas such as central and eastern Washington and rural
11 areas.

12 NEW SECTION. **Sec. 19.** RCW 10.31.115 (Drug possession—Referral
13 to assessment and services) and 2021 c 311 s 13 are each repealed.

14 **Part V - Funding, Promotion, and Training for Recovery Residences**

15 NEW SECTION. **Sec. 20.** A new section is added to chapter 71.24
16 RCW to read as follows:

17 Subject to the availability of funds appropriated for this
18 specific purpose, the authority shall:

19 (1) Make sufficient funding available to support establishment of
20 an adequate and equitable stock of recovery residences in each region
21 of the state;

22 (2) Establish a voucher program to allow accredited recovery
23 housing operators to hold bed space for individuals who are waiting
24 for treatment or who have returned to use and need a place to stay
25 while negotiating a return to stable housing;

26 (3) Conduct outreach to underserved and rural areas to support
27 the development of recovery housing, including adequate resources for
28 women, LGBTQIA+ communities, Black, indigenous, and other people of
29 color communities, immigrant communities, and youth; and

30 (4) Develop a training for housing providers by January 1, 2024,
31 to assist them with providing appropriate service to LGBTQIA+
32 communities, Black, indigenous, and other people of color
33 communities, and immigrant communities, including consideration of
34 topics like harassment, communication, antiracism, diversity, and
35 gender affirming behavior, and ensure applicants for grants or loans
36 related to recovery residences receive access to the training.

1 **Sec. 21.** RCW 84.36.043 and 1998 c 174 s 1 are each amended to
2 read as follows:

3 (1) The real and personal property used by a nonprofit
4 organization in providing emergency or transitional housing for low-
5 income homeless persons as defined in RCW 35.21.685 or 36.32.415 or
6 victims of domestic violence who are homeless for personal safety
7 reasons is exempt from taxation if:

8 (a) The charge, if any, for the housing does not exceed the
9 actual cost of operating and maintaining the housing; and

10 (b) (i) The property is owned by the nonprofit organization; or

11 (ii) The property is rented or leased by the nonprofit
12 organization and the benefit of the exemption inures to the nonprofit
13 organization.

14 (2) The real and personal property used by a nonprofit
15 organization in maintaining an approved recovery residence registered
16 under RCW 41.05.760 is exempt from taxation if:

17 (a) The charge for the housing does not exceed the actual cost of
18 operating and maintaining the housing; and

19 (b) (i) The property is owned by the nonprofit organization; or

20 (ii) The property is rented or leased by the nonprofit
21 organization and the benefit of the exemption inures to the nonprofit
22 organization.

23 (3) As used in this section:

24 (a) "Homeless" means persons, including families, who, on one
25 particular day or night, do not have decent and safe shelter nor
26 sufficient funds to purchase or rent a place to stay.

27 (b) "Emergency housing" means a project that provides housing and
28 supportive services to homeless persons or families for up to sixty
29 days.

30 (c) "Transitional housing" means a project that provides housing
31 and supportive services to homeless persons or families for up to two
32 years and that has as its purpose facilitating the movement of
33 homeless persons and families into independent living.

34 ~~((3))~~ (d) "Recovery residence" has the same meaning as under
35 RCW 41.05.760.

36 (4) The exemption in subsection (2) of this section applies to
37 taxes levied for collection in calendar years 2024 through 2033.

38 (5) This exemption is subject to the administrative provisions
39 contained in RCW 84.36.800 through 84.36.865.

1 NEW SECTION. **Sec. 22.** (1) This section is the tax preference
2 performance statement for the tax preference contained in section 21,
3 chapter . . ., Laws of 2023 (section 21 of this act). This
4 performance statement is only intended to be used for subsequent
5 evaluation of the tax preference. It is not intended to create a
6 private right of action by any party or to be used to determine
7 eligibility for preferential tax treatment.

8 (2) The legislature categorizes this tax preference as one
9 intended to provide tax relief for certain businesses or individuals,
10 as indicated in RCW 82.32.808(2)(e).

11 (3) By exempting property used by nonprofit organizations
12 maintaining approved recovery residences, it is the legislature's
13 specific public policy objective to maximize funding for recovery
14 residences to the extent possible, thereby increasing availability of
15 such residences.

16 (4) To measure the effectiveness of the tax exemption provided in
17 section 21 of this act in achieving the specific public policy
18 objectives described in subsection (3) of this section, the joint
19 legislative audit and review committee must evaluate:

20 (a) Annual changes in the total number of parcels qualifying for
21 the exemption under section 21 of this act;

22 (b) The amount of annual property tax relief resulting from the
23 tax exemption under section 21 of this act;

24 (c) The average annual number of people housed at recovery
25 residences located on property qualifying for the exemption under
26 section 21 of this act;

27 (d) The annualized amount charged for housing at recovery
28 residences located on property qualifying for the exemption under
29 section 21 of this act and the annualized estimated increase in the
30 charge for housing if the properties had not been eligible for the
31 exemption; and

32 (e) The annual amount of expenditures by nonprofits to maintain
33 recovery residences located on property qualifying for the exemption
34 under section 21 of this act.

35 (5) The legislature intends to extend the expiration date of the
36 property tax exemption under section 21 of this act if the review by
37 the joint legislative audit and review committee finds that:

38 (a) The number of properties qualifying for the exemption under
39 section 21 of this act has increased;

1 (b) The number of individuals using recovery housing located on
2 property qualifying for the exemption under section 21 of this act
3 has increased; and

4 (c) The amount charged for recovery housing is reasonably
5 consistent with the actual cost of operating and maintaining the
6 housing.

7 (6) In order to obtain the data necessary to perform the review
8 in subsection (4) of this section, the joint legislative audit and
9 review committee may refer to:

10 (a) Initial applications for the tax exemption under section 21
11 of this act as approved by the department of revenue under RCW
12 84.36.815;

13 (b) Annual financial statements prepared by nonprofit entities
14 claiming the tax exemption under section 21 of this act;

15 (c) Filings with the federal government to maintain federal tax
16 exempt status by nonprofit organizations claiming the tax exemption
17 under section 21 of this act; and

18 (d) Any other data necessary for the evaluation under subsection
19 (4) of this section.

20 **Part VI – Training for Parents of Children with Substance Use Disorder**
21 **and Caseworkers Within the Department of Children, Youth, and**
22 **Families**

23 NEW SECTION. **Sec. 23.** A new section is added to chapter 71.24
24 RCW to read as follows:

25 (1) The authority, in consultation with the department of
26 children, youth, and families, shall develop a training for parents
27 of adolescents and transition age youth with substance use disorders
28 by June 30, 2024, which training must build on and be consistent and
29 compatible with existing training developed by the authority for
30 families impacted by substance use disorder, and addressing the
31 following:

32 (a) Science and education related to substance use disorders and
33 recovery;

34 (b) Adaptive and functional communication strategies for
35 communication with a loved one about their substance use disorder,
36 including positive communication skills and strategies to influence
37 motivation and behavioral change;

38 (c) Self-care and means of obtaining support;

1 (d) Means to obtain opioid overdose reversal medication when
2 appropriate and instruction on proper use; and

3 (e) Suicide prevention.

4 (2) The authority and the department of children, youth, and
5 families shall make this training publicly available, and the
6 department of children, youth, and families must promote the training
7 to licensed foster parents and caregivers, including any tribally
8 licensed foster parents and tribal caregivers.

9 NEW SECTION. **Sec. 24.** A new section is added to chapter 43.216
10 RCW to read as follows:

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

15 **Part VII – Recovery Navigator Programs**

16 NEW SECTION. **Sec. 25.** To support recovery navigator programs,
17 the health care authority must develop and implement a data
18 integration platform by June 30, 2024, to serve as a common database
19 available for diversion efforts across the state, to serve as a data
20 collection and management tool for practitioners, and to assist in
21 standardizing definitions and practices. If possible, the health care
22 authority must leverage and interact with existing platforms already
23 in use in efforts funded by the authority. The health care authority
24 must establish a quality assurance process for behavioral health
25 administrative services organizations, and employ data validation for
26 fields in the data collection workbook. The health care authority
27 must engage and consult with the law enforcement assisted diversion
28 national support bureau on data integration approaches, platforms,
29 quality assurance protocols, and validation practices.

30 NEW SECTION. **Sec. 26.** A new section is added to chapter 71.24
31 RCW to read as follows:

32 (1) The authority shall contract with the Washington state
33 institute for public policy to conduct a study of the long-term
34 effectiveness of the recovery navigator program under RCW 71.24.115
35 and the law enforcement assisted diversion programs established under
36 RCW 71.24.589 with reports due by December 31st in the years 2024,

1 2026, and 2028. The Washington state institute for public policy
2 shall collaborate with the authority and the substance use recovery
3 services advisory committee under RCW 71.24.546 on the topic of data
4 collection and to determine the parameters of the report, which shall
5 include recommendations, if any, for modification and improvement of
6 the recovery navigator program and the law enforcement assisted
7 diversion model. The authority may supplement the report with
8 additional recommendations to improve the recovery navigator program
9 and the law enforcement assisted diversion programs by enhancing the
10 ability of each to provide viable, accepted, community-based care
11 alternatives, in both urban and rural communities, to jail and
12 prosecution. The authority shall cooperate with the Washington state
13 institute for public policy to provide data for this report.

14 (2) The authority shall establish an expedited preapproval
15 process by August 1, 2023, which allows requests for the use of data
16 to be forwarded to the Washington state institutional review board
17 without delay when the request is made by the Washington state
18 institute for public policy for the purpose of completing a study
19 that has been directed by the legislature.

20 **Sec. 27.** RCW 71.24.115 and 2021 c 311 s 2 are each amended to
21 read as follows:

22 (1) Each behavioral health administrative services organization
23 shall establish ((a)) recovery navigator ((program)) programs with
24 the goal of providing law enforcement and other criminal legal system
25 personnel with a credible alternative to further legal system
26 involvement for criminal activity that stems from unmet behavioral
27 health needs or poverty. The programs shall work to improve community
28 health and safety by reducing individuals' involvement with the
29 criminal legal system through the use of specific human services
30 tools and in coordination with community input. Each program must
31 include a dedicated project manager and be governed by a policy
32 coordinating group comprised, in alignment with the core principles,
33 of local executive and legislative officials, public safety agencies,
34 including police and prosecutors, and civil rights, public defense,
35 and human services organizations.

36 (2) The recovery navigator programs shall be organized on a scale
37 that permits meaningful engagement, collaboration, and coordination
38 with local law enforcement and municipal agencies through the policy
39 coordinating groups. The ((program)) programs shall provide

1 community-based outreach, intake, assessment, and connection to
2 services and, as appropriate, long-term intensive case management and
3 recovery coaching services, to youth and adults with substance use
4 disorder, including for persons with co-occurring substance use
5 disorders and mental health conditions, who are referred to the
6 program from diverse sources and shall facilitate and coordinate
7 connections to a broad range of community resources for youth and
8 adults with substance use disorder, including treatment and recovery
9 support services. Recovery navigator programs must serve and
10 prioritize individuals who are actually or potentially exposed to the
11 criminal legal system with respect to unlawful behavior connected to
12 substance use or other behavioral health issues.

13 ~~((2) The))~~ (3) By December 31, 2023, the authority shall
14 ~~((establish))~~ revise its uniform program standards for behavioral
15 health administrative services organizations to follow in the design
16 of their recovery navigator programs to achieve fidelity with the
17 core principles. The uniform program standards must be modeled upon
18 the components of the law enforcement assisted diversion program and
19 address project management, field engagement, biopsychosocial
20 assessment, intensive case management and care coordination,
21 stabilization housing when available and appropriate, and, as
22 necessary, legal system coordination for participants' legal cases
23 that may precede or follow referral to the program. The uniform
24 program standards must incorporate the law enforcement assisted
25 diversion framework for diversion at multiple points of engagement
26 with the criminal legal system, including prearrest, prebooking,
27 prefiling, and for ongoing case conferencing with law enforcement,
28 prosecutors, community stakeholders, and program case managers. The
29 authority must adopt the uniform program standards from the
30 components of the law enforcement assisted diversion program to
31 accommodate an expanded population of persons with substance use
32 disorders, including persons with co-occurring substance use
33 disorders and mental health conditions, ~~((and allow))~~ provide for
34 referrals from a broad range of sources, and require prioritization
35 of those who are or likely will be exposed to the criminal legal
36 system related to their behavioral health challenges. In addition to
37 accepting referrals from law enforcement and courts of limited
38 jurisdiction, the uniform program standards must provide guidance for
39 accepting referrals on behalf of persons with substance use
40 disorders, including persons with co-occurring substance use

1 disorders and mental health conditions, from various sources
2 including, but not limited to, self-referral, family members of the
3 individual, emergency department personnel, persons engaged with
4 serving homeless persons, including those living unsheltered or in
5 encampments, fire department personnel, emergency medical service
6 personnel, community-based organizations, members of the business
7 community, harm reduction program personnel, faith-based organization
8 staff, and other sources within the criminal legal system, (~~as~~
9 ~~outlined~~) so that individuals are engaged as early as possible
10 within the sequential intercept model. In developing response time
11 requirements within the statewide program standards, the authority
12 shall require, subject to the availability of amounts appropriated
13 for this specific purpose, that responses to referrals from law
14 enforcement occur immediately for in-custody referrals and shall
15 strive for rapid response times to other appropriate settings such as
16 emergency departments and courts of limited jurisdiction.

17 (~~(3)~~) (4) Subject to the availability of amounts appropriated
18 for this specific purpose, the authority shall provide funding to
19 each behavioral health administrative services organization for the
20 (~~development of its~~) continuation of and, as required by this
21 section, the revisions to and reorganization of the recovery
22 navigator (~~program~~) programs they fund. Before receiving funding
23 for implementation and ongoing administration, each behavioral health
24 administrative services organization must submit a program plan that
25 demonstrates the ability to fully comply with statewide program
26 standards. The authority shall establish a schedule for the regular
27 review of recovery navigator programs funded by behavioral health
28 administrative services (~~organizations' programs~~) organizations.
29 The authority shall arrange for technical assistance to be provided
30 by the LEAD national support bureau to all behavioral health
31 administrative services organizations, the authority, contracted
32 providers, and independent stakeholders and partners, such as
33 prosecuting attorneys and law enforcement.

34 (~~(4)~~) (5) Each behavioral health administrative services
35 organization must have a substance use disorder regional
36 administrator for its recovery navigator program. The regional
37 administrator shall be responsible for assuring compliance with
38 program standards, including staffing standards. Each recovery
39 navigator program must maintain a sufficient number of appropriately
40 trained personnel for providing intake and referral services,

1 conducting comprehensive biopsychosocial assessments, providing
2 intensive case management services, and making warm handoffs to
3 treatment and recovery support services along the continuum of care.
4 Program staff must include people with lived experience with
5 substance use disorder to the extent possible. The substance use
6 disorder regional administrator must assure that staff who are
7 conducting intake and referral services and field assessments are
8 paid a livable and competitive wage and have appropriate initial
9 training and receive continuing education.

10 ~~((5))~~ (6) Each recovery navigator program must submit quarterly
11 reports to the authority with information identified by the authority
12 and the substance use recovery services advisory committee. The
13 reports must be provided to the substance use recovery services
14 advisory committee for discussion at meetings following the
15 submission of the reports.

16 (7) (a) The criminal justice training commission, in consultation
17 with the authority and other key stakeholders, shall conduct an
18 assessment of the current status toward achieving the statewide
19 implementation of recovery navigator programs in fidelity with core
20 principles. The assessment shall consider:

21 (i) The results of the law enforcement assisted diversion
22 standards fidelity index analysis, conducted by an independent
23 research scientist with expertise in law enforcement assisted
24 diversion evaluation, including findings with respect to each
25 standard assessed, for each recovery navigator program, in each
26 behavioral health administrative services organization region;

27 (ii) Reports on utilization of technical support from the law
28 enforcement assisted diversion national support bureau by recovery
29 navigator program contractors, the authority, and behavioral health
30 administrative services organizations; and

31 (iii) Barriers to achieving fidelity to core principles.

32 (b) By December 1, 2023, the criminal justice training commission
33 shall submit to the governor and both chambers of the legislature a
34 report of its findings and recommendations on administrative and
35 legislative steps that will facilitate the achievement of the
36 statewide adoption of recovery navigator programs operating in
37 fidelity with core principles.

38 (8) No civil liability may be imposed by any court on the state
39 or its officers or employees, an appointed or elected official,
40 public employee, public agency as defined in RCW 4.24.470,

1 combination of units of government and its employees as provided in
2 RCW 36.28A.010, nonprofit community-based organization, tribal
3 government entity, tribal organization, or urban Indian organization,
4 based on the administration of a recovery navigator program except
5 upon proof of bad faith or gross negligence.

6 (9) For the purposes of this section, the term "core principles"
7 means the core principles of a law enforcement assisted diversion
8 program, as established by the law enforcement assisted diversion
9 national support bureau in its toolkit, as it existed on May 1, 2023.

10 **Part VIII - Establishing a Pilot Program for Health Engagement Hubs**

11 NEW SECTION. Sec. 28. A new section is added to chapter 71.24
12 RCW to read as follows:

13 (1)(a) The authority shall implement a pilot program for health
14 engagement hubs by August 1, 2024. The pilot program will test the
15 functionality and operability of health engagement hubs, including
16 whether and how to incorporate and build on existing medical, harm
17 reduction, treatment, and social services in order to create an all-
18 in-one location where people who use drugs can access such services.

19 (b) Subject to amounts appropriated, the authority shall
20 establish pilot programs on at least two sites, with one site located
21 in an urban area and one located in a rural area.

22 (c) The authority shall report on the pilot program results,
23 including recommendations for expansion, and rules and payment
24 structures, to the legislature no later than August 1, 2026.

25 (2) A health engagement hub is intended to:

26 (a) Serve as an all-in-one location where people who use drugs
27 can access a range of medical, harm reduction, treatment, and social
28 services;

29 (b) Be affiliated with existing syringe service programs,
30 federally qualified health centers, community health centers,
31 overdose prevention sites, safe consumption sites, patient-centered
32 medical homes, tribal behavioral health programs, peer run
33 organizations such as clubhouses, services for unhoused people,
34 supportive housing, and opioid treatment programs including mobile
35 and fixed-site medication units established under an opioid treatment
36 program, or other appropriate entity;

37 (c) Provide referrals or access to methadone and other
38 medications for opioid use disorder;

- 1 (d) Function as a patient-centered medical home by offering high-
2 quality, cost-effective patient-centered care, including wound care;
3 (e) Provide harm reduction services and supplies;
4 (f) Provide linkage to housing, transportation, and other support
5 services; and
6 (g) Be open to youth as well as adults.

7 **Part IX - Education and Employment Pathways**

8 NEW SECTION. **Sec. 29.** A new section is added to chapter 71.24
9 RCW to read as follows:

10 Subject to funding provided for this specific purpose, the
11 authority shall establish a grant program for providers of
12 employment, education, training, certification, and other supportive
13 programs designed to provide persons recovering from a substance use
14 disorder with employment and education opportunities. The grant
15 program shall employ a low-barrier application and give priority to
16 programs that engage with black, indigenous, persons of color, and
17 other historically underserved communities.

18 **Part X - Providing a Statewide Directory of Recovery Services**

19 NEW SECTION. **Sec. 30.** A new section is added to chapter 71.24
20 RCW to read as follows:

21 Subject to funding provided for this specific purpose, the
22 authority must collaborate with the department and the department of
23 social and health services to expand the Washington recovery helpline
24 and the recovery readiness asset tool to provide a dynamically
25 updated statewide behavioral health treatment and recovery support
26 services mapping tool that includes a robust resource database for
27 those seeking services and a referral system to be incorporated
28 within the locator tool to help facilitate the connection between an
29 individual and a facility that is currently accepting new referrals.
30 The tool must include dual interface capability, one for public
31 access and one for internal use and management.

32 **Part XI - Investing Adequately in Statewide Diversion Services**

33 NEW SECTION. **Sec. 31.** A new section is added to chapter 71.24
34 RCW to read as follows:

1 Subject to the availability of funds appropriated for this
2 specific purpose, the authority shall:

3 (1) Continue and expand efforts to provide opioid use disorder
4 medication in city, county, regional, and tribal jails;

5 (2) Provide support funds to new and established recovery support
6 services including clubhouses throughout the state;

7 (3) Award grants to an equivalent number of crisis services
8 providers to the west and the east of the Cascade mountains, to
9 establish and expand 23-hour crisis relief center capacity;

10 (4) Maintain a memorandum of understanding with the criminal
11 justice training commission to provide ongoing funding for community
12 grants pursuant to RCW 36.28A.450; and

13 (5) Provide ongoing grants to law enforcement assistant diversion
14 programs under RCW 71.24.589.

15 **Part XII - Streamlining Substance Use Disorder Treatment Assessments**

16 NEW SECTION. **Sec. 32.** A new section is added to chapter 71.24
17 RCW to read as follows:

18 (1) The authority shall convene a work group to recommend changes
19 to systems, policies, and processes related to intake, screening, and
20 assessment for substance use disorder services, with the goal to
21 broaden the workforce capable of administering substance use disorder
22 assessments and to make the assessment process as brief as possible,
23 including only what is necessary to manage utilization and initiate
24 care. The assessment shall be low barrier, person-centered, and
25 amenable to administration in diverse health care settings and by a
26 range of health care professionals. The assessment shall consider the
27 person's self-identified needs and preferences when evaluating
28 direction of treatment and may include different components based on
29 the setting, context, and past experience with the client.

30 (2) The work group must include care providers, payors, people
31 who use drugs, individuals in recovery from substance use disorder,
32 and other individuals recommended by the authority. The work group
33 shall present its recommendations to the governor and appropriate
34 committees of the legislature by December 1, 2024.

35 **Sec. 33.** RCW 18.64.600 and 2020 c 244 s 2 are each amended to
36 read as follows:

1 (1) The license of location for a pharmacy licensed under this
2 chapter may be extended to a remote dispensing site where technology
3 is used to dispense medications (~~(approved by the United States food~~
4 ~~and drug administration)~~) used for the treatment of opioid use
5 disorder or its symptoms.

6 (2) In order for a pharmacy to use remote dispensing sites, a
7 pharmacy must register each separate remote dispensing site with the
8 commission.

9 (3) The commission shall adopt rules that establish minimum
10 standards for remote dispensing sites registered under this section.
11 The minimum standards shall address who may retrieve medications for
12 opioid use disorder stored in or at a remote dispensing site pursuant
13 to a valid prescription or chart order. The minimum standards must
14 require the pharmacy be responsible for stocking and maintaining a
15 perpetual inventory of the medications for opioid use disorder stored
16 in or at the registered remote dispensing site. The dispensing
17 technology may be owned by either the pharmacy or the registered
18 remote dispensing site.

19 (4) The secretary may adopt rules to establish a reasonable fee
20 for obtaining and renewing a registration issued under this section.

21 (5) The registration issued under this section will be considered
22 as part of the pharmacy license issued under RCW 18.64.043. If the
23 underlying pharmacy license is not active, then the registration
24 shall be considered inoperable by operation of law.

25 **Part XIII - Health Care Authority Comprehensive Data Reporting**
26 **Requirements**

27 NEW SECTION. **Sec. 34.** A new section is added to chapter 71.24
28 RCW to read as follows:

29 (1) The authority is responsible for providing regular
30 assessments of the prevalence of substance use disorders and
31 interactions of persons with substance use disorder with service
32 providers, nonprofit service providers, first responders, health care
33 facilities, and law enforcement agencies. Beginning in 2026, the
34 annual report required in subsection (3)(a) of this section shall
35 include a comprehensive assessment of the information described in
36 this subsection for the prior calendar year.

37 (2)(a) The authority shall identify the types and sources of data
38 necessary to implement the appropriate means and methods of gathering

1 data to provide the information required in subsection (1) of this
2 section.

3 (b) The authority must provide a preliminary inventory report to
4 the governor and the legislature by December 1, 2023, and a final
5 inventory report by December 1, 2024. The reports must:

6 (i) Identify existing types and sources of data available to the
7 authority to provide the information required in subsection (1) of
8 this section and what data are necessary but currently unavailable to
9 the authority;

10 (ii) Include recommendations for new data connections, new data-
11 sharing authority, and sources of data that are necessary to provide
12 the information required in subsection (1) of this section; and

13 (iii) Include recommendations, including any necessary
14 legislation, regarding the development of reporting mechanisms
15 between the authority and service providers, nonprofit service
16 providers, health care facilities, law enforcement agencies, and
17 other state agencies to gather the information required in subsection
18 (1) of this section.

19 (3)(a) Beginning July 1, 2024, and each July 1st thereafter until
20 July 1, 2028, the authority shall provide an implementation report to
21 the governor and the legislature regarding recovery residences,
22 recovery navigator programs, the health engagement pilot programs,
23 and the law enforcement assisted diversion grants program. The report
24 shall include:

25 (i) The number of contracts awarded to law enforcement assisted
26 diversion programs, including the amount awarded in the contract, and
27 the names and service locations of contract recipients;

28 (ii) The location of recovery residences, recovery navigator
29 programs, health engagement hub pilot programs, and law enforcement
30 assisted diversion programs;

31 (iii) The scope and nature of services provided by recovery
32 navigator programs, health engagement hub pilot programs, and law
33 enforcement assisted diversion programs;

34 (iv) The number of individuals served by recovery residences,
35 recovery navigator programs, health engagement hub pilot programs,
36 and law enforcement assisted diversion programs;

37 (v) If known, demographic data concerning the utilization of
38 these services by overburdened and underrepresented communities; and

39 (vi) The number of grants awarded to providers of employment,
40 education, training, certification, and other supportive programs,

1 including the amount awarded in each grant and the names of provider
2 grant recipients, as provided for in section 29 of this act.

3 (b) The data obtained by the authority under this section shall
4 be integrated with the Washington state institute for public policy
5 report under section 26 of this act.

6 (4) Beginning in the July 1, 2027, report in subsection (3)(a) of
7 this section, the authority shall provide:

8 (a) The results and effectiveness of the authority's
9 collaboration with the department of health and the department of
10 social and health services to expand the Washington recovery helpline
11 and recovery readiness asset tool to provide a dynamically updated
12 statewide behavioral health treatment and recovery support services
13 mapping tool, including the results and effectiveness with respect to
14 overburdened and underrepresented communities, in accordance with
15 section 30 of this act;

16 (b) The results and effectiveness of the authority's development
17 and implementation of a data integration platform to support recovery
18 navigator programs and to serve as a common database available for
19 diversion efforts across the state, including the results and
20 effectiveness with respect to overburdened and underrepresented
21 communities, as provided in section 25 of this act;

22 (c) The effectiveness and outcomes of training developed and
23 provided by the authority in consultation with the department of
24 children, youth, and families, as provided in section 23 of the act;
25 and

26 (d) The effectiveness and outcomes of training developed by the
27 authority for housing providers, as provided in section 20(4) of the
28 act.

29 **Part XIV - Miscellaneous Provisions**

30 NEW SECTION. **Sec. 35.** Section 7 of this act takes effect
31 January 1, 2025.

32 **Sec. 36.** 2021 c 311 s 29 (uncodified) is amended to read as
33 follows:

34 Sections 8 through 10(~~(7)~~) and 12(~~(7, 15, and 16)~~) of this act
35 expire July 1, 2023.

1 NEW SECTION. **Sec. 37.** Sections 2 through 6, 8 through 12, and
2 36 of this act are necessary for the immediate preservation of the
3 public peace, health, or safety, or support of the state government
4 and its existing public institutions, and take effect immediately.

5 NEW SECTION. **Sec. 38.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 39.** If specific funding for the purposes of
10 this act, referencing this act by bill or chapter number, is not
11 provided by June 30, 2023, in the omnibus appropriations act, this
12 act is null and void."

13 Correct the title.

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