

ORDINANCE NO. 23-004

AN ORDINANCE adopting the amendments to Chapter 69.50 RCW, and Chapter 69.41 RCW, as set forth in Washington State Senate Bill 5536, and amending Camas Municipal Code Chapter 9.36.

WHEREAS, on February 25, 2021, the Washington State Supreme Court held in the case of *State v. Blake* that RCW 69.50.4013 exceeded the state's police power and violated the due process clauses of the state and federal constitutions, which had the effect of eliminating criminal penalties for the possession of a controlled substance; and

WHEREAS, on May 17, 2023, the Governor signed Senate Bill 5536 into law which criminalizes the knowing possession of controlled substance without a valid prescription, and knowing use of a controlled substance in a public place without a valid prescription; and

WHEREAS, Sections 1 through 5, 7 through 11, and 41 of SB 5536 are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect on July 1, 2023; and

WHEREAS, the City of Camas through its prosecution, based upon the totality of the circumstances, may offer a stay of proceeding or diversion which includes assessment, treatment or other services; may refer a case to the Clark County Drug Court; or may recommend imposition of sentence up to the maximum penalty as set forth in SB 5536; and

WHEREAS, the City of Camas desires to adopt the provisions of SB 5536 relating to its police power and police authority to protect the health, safety and welfare of Camas's inhabitants.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CAMAS AS FOLLOWS:

Section I

Camas Municipal Code 9.36.010(A)(153) is readopted as follows:

**9.36.010(A)(153). All Chapter 69.50 RCW offenses, as adopted or as hereinafter amended, for which the penalty is either a misdemeanor or gross misdemeanor.**

Section II

Camas Municipal Code 9.36.010(A)(116) is amended as follows:

**9.36.010(A)(116). RCW 69.41.030: Sale, delivery, or possession of legend drug, as adopted or as hereinafter amended, for which the penalty is either a misdemeanor or gross misdemeanor.**

Section III

Camas Municipal Code 9.36.010(A)(116) is amended as follows:

**9.36.010(A)(117). RCW 69.41.070: Penalties, as adopted or as hereinafter amended.**

Section IV

Camas Municipal Code 9.36.010(A)(148) is amended as follows:

**9.36.010(A)(148). RCW 69.50.4121: Drug paraphernalia—Selling or giving—Penalty, as adopted or as hereinafter amended.**

Section V

This ordinance shall take force and be in effect July 1, 2023, after its publication according to law.

Ordinance No.

Page 3

PASSED by the Council and APPROVED by the Mayor this \_\_\_\_ day of June, 2023.

SIGNED: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
Clerk

APPROVED as to form:

\_\_\_\_\_  
City Attorney



**E2SSB 5536** - S AMD 470  
By Senator Robinson

ADOPTED 05/16/2023

Strike everything after the enacting clause and insert the following:

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

**Sec. 1.** RCW 69.50.4011 and 2003 c 53 s 332 are each amended to read as follows:

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

(a) Create or deliver a counterfeit substance;

(b) Knowingly possess a counterfeit substance; or

(c) Knowingly use a counterfeit substance in a public place.

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

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

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

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

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

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

1       (3)(a) A violation of subsection (1)(b) or (c) of this section is  
2 a gross misdemeanor punishable by imprisonment of up to 180 days, or  
3 by a fine of not more than \$1,000, or by both such imprisonment and  
4 fine, however, if the defendant has two or more prior convictions  
5 under subsection (1)(b) or (c) of this section occurring after the  
6 effective date of this section, a violation of subsection (1)(b) or  
7 (c) of this section is punishable by imprisonment for up to 364 days,  
8 or by a fine of not more than \$1,000, or by both such imprisonment  
9 and fine. The prosecutor is encouraged to divert such cases for  
10 assessment, treatment, or other services.

11       (b) No person may be charged under both subsection (1)(b) and (c)  
12 of this section relating to the same course of conduct.

13       (c) In lieu of jail booking and referral to the prosecutor, law  
14 enforcement is encouraged to offer a referral to assessment and  
15 services available under RCW 10.31.110 or other program or entity  
16 responsible for receiving referrals in lieu of legal system  
17 involvement, which may include, but are not limited to, arrest and  
18 jail alternative programs established under RCW 36.28A.450, law  
19 enforcement assisted diversion programs established under RCW  
20 71.24.589, and the recovery navigator program established under RCW  
21 71.24.115.

22       (4) For the purposes of this section, "public place" has the same  
23 meaning as defined in RCW 66.04.010, but the exclusions in RCW  
24 66.04.011 do not apply.

25       (5) For the purposes of this section, "use a counterfeit  
26 substance" means to introduce the substance into the human body by  
27 injection, inhalation, ingestion, or any other means.

28       **Sec. 2.** RCW 69.50.4013 and 2022 c 16 s 86 are each amended to  
29 read as follows:

30       (1) ~~((1))~~ Except as otherwise authorized by this chapter, it is  
31 unlawful for any person to:

32       (a) Knowingly possess a controlled substance unless the substance  
33 was obtained directly from, or pursuant to, a valid prescription or  
34 order of a practitioner while acting in the course of his or her  
35 professional practice(~~(, or except as otherwise authorized by this~~  
36 ~~chapter))~~; or

37       (b) Knowingly use a controlled substance in a public place,  
38 unless the substance was obtained directly from, or pursuant to, a

1 valid prescription or order of a practitioner while acting in the  
2 course of his or her professional practice.

3 (2) (a) Except as provided in RCW 69.50.4014 or 69.50.445, ((any  
4 person who violates this section is guilty of a class C felony  
5 punishable under chapter 9A.20 RCW)) a violation of subsection (1)(a)  
6 or (b) of this section is a gross misdemeanor punishable by  
7 imprisonment of up to 180 days in jail, or by a fine of not more than  
8 \$1,000, or by both such imprisonment and fine, however, if the  
9 defendant has two or more prior convictions under subsection (1)(a)  
10 or (b) of this section occurring after the effective date of this  
11 section, a violation of subsection (1)(a) or (b) of this section is  
12 punishable by imprisonment for up to 364 days, or by a fine of not  
13 more than \$1,000, or by both such imprisonment and fine. The  
14 prosecutor is encouraged to divert such cases for assessment,  
15 treatment, or other services.

16 (b) No person may be charged under both subsection (1)(a) and (b)  
17 of this section relating to the same course of conduct.

18 (c) In lieu of jail booking and referral to the prosecutor, law  
19 enforcement is encouraged to offer a referral to assessment and  
20 services available under RCW 10.31.110 or other program or entity  
21 responsible for receiving referrals in lieu of legal system  
22 involvement, which may include, but are not limited to, arrest and  
23 jail alternative programs established under RCW 36.28A.450, law  
24 enforcement assisted diversion programs established under RCW  
25 71.24.589, and the recovery navigator program established under RCW  
26 71.24.115.

27 (3) (a) The possession, by a person ((~~twenty-one~~)) 21 years of age  
28 or older, of useable cannabis, cannabis concentrates, or cannabis-  
29 infused products in amounts that do not exceed those set forth in RCW  
30 69.50.360(3) is not a violation of this section, this chapter, or any  
31 other provision of Washington state law.

32 (b) The possession of cannabis, useable cannabis, cannabis  
33 concentrates, and cannabis-infused products being physically  
34 transported or delivered within the state, in amounts not exceeding  
35 those that may be established under RCW 69.50.385(3), by a licensed  
36 employee of a common carrier when performing the duties authorized in  
37 accordance with RCW 69.50.382 and 69.50.385, is not a violation of  
38 this section, this chapter, or any other provision of Washington  
39 state law.

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

8 (i) One-half ounce of useable cannabis;

9 (ii) Eight ounces of cannabis-infused product in solid form;

10 (iii) (~~((thirty-six))~~) 36 ounces of cannabis-infused product in  
11 liquid form; or

12 (iv) Three and one-half grams of cannabis concentrates.

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

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

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

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

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

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

33 (8) For the purposes of this section, "use a controlled  
34 substance" means to introduce the substance into the human body by  
35 injection, inhalation, ingestion, or any other means.

36 **Sec. 3.** RCW 69.50.4014 and 2022 c 16 s 88 are each amended to  
37 read as follows:

38 (1) Except as provided in RCW 69.50.401(2)(c) or as otherwise  
39 authorized by this chapter, any person found guilty of knowing



1 possession of ((~~forty~~)) 40 grams or less of cannabis is guilty of a  
2 misdemeanor. The prosecutor is encouraged to divert cases under this  
3 section for assessment, treatment, or other services.

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

13 **Sec. 4.** RCW 69.41.030 and 2020 c 80 s 41 are each amended to  
14 read as follows:

15 (1) It shall be unlawful for any person to sell((~~7~~)) or deliver  
16 any legend drug, or knowingly possess any legend drug, or knowingly  
17 use any legend drug in a public place, except upon the order or  
18 prescription of a physician under chapter 18.71 RCW, an osteopathic  
19 physician and surgeon under chapter 18.57 RCW, an optometrist  
20 licensed under chapter 18.53 RCW who is certified by the optometry  
21 board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a  
22 podiatric physician and surgeon under chapter 18.22 RCW, a  
23 veterinarian under chapter 18.92 RCW, a commissioned medical or  
24 dental officer in the United States armed forces or public health  
25 service in the discharge of his or her official duties, a duly  
26 licensed physician or dentist employed by the veterans administration  
27 in the discharge of his or her official duties, a registered nurse or  
28 advanced registered nurse practitioner under chapter 18.79 RCW when  
29 authorized by the nursing care quality assurance commission, a  
30 pharmacist licensed under chapter 18.64 RCW to the extent permitted  
31 by drug therapy guidelines or protocols established under RCW  
32 18.64.011 and authorized by the commission and approved by a  
33 practitioner authorized to prescribe drugs, a physician assistant  
34 under chapter 18.71A RCW when authorized by the Washington medical  
35 commission, or any of the following professionals in any province of  
36 Canada that shares a common border with the state of Washington or in  
37 any state of the United States: A physician licensed to practice  
38 medicine and surgery or a physician licensed to practice osteopathic  
39 medicine and surgery, a dentist licensed to practice dentistry, a

1 podiatric physician and surgeon licensed to practice podiatric  
2 medicine and surgery, a licensed advanced registered nurse  
3 practitioner, a licensed physician assistant, or a veterinarian  
4 licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the  
5 above provisions shall not apply to sale, delivery, or possession by  
6 drug wholesalers or drug manufacturers, or their agents or employees,  
7 or to any practitioner acting within the scope of his or her license,  
8 or to a common or contract carrier or warehouse operator, or any  
9 employee thereof, whose possession of any legend drug is in the usual  
10 course of business or employment: PROVIDED FURTHER, That nothing in  
11 this chapter or chapter 18.64 RCW shall prevent a family planning  
12 clinic that is under contract with the health care authority from  
13 selling, delivering, possessing, and dispensing commercially  
14 prepackaged oral contraceptives prescribed by authorized, licensed  
15 health care practitioners: PROVIDED FURTHER, That nothing in this  
16 chapter prohibits possession or delivery of legend drugs by an  
17 authorized collector or other person participating in the operation  
18 of a drug take-back program authorized in chapter 69.48 RCW.

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

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

25 (c) A violation of this section involving knowing use in a public  
26 place is a misdemeanor. The prosecutor is encouraged to divert such  
27 cases for assessment, treatment, or other services.

28 (d) No person may be charged with both knowing possession and  
29 knowing use in a public place under this section relating to the same  
30 course of conduct.

31 (e) In lieu of jail booking and referral to the prosecutor for a  
32 violation of this section involving knowing possession, or knowing  
33 use in a public place, law enforcement is encouraged to offer a  
34 referral to assessment and services available under RCW 10.31.110 or  
35 other program or entity responsible for receiving referrals in lieu  
36 of legal system involvement, which may include, but are not limited  
37 to, arrest and jail alternative programs established under RCW  
38 36.28A.450, law enforcement assisted diversion programs established  
39 under RCW 71.24.589, and the recovery navigator program established  
40 under RCW 71.24.115.

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

4       (4) For the purposes of this section, "use any legend drug" means  
5 to introduce the drug into the human body by injection, inhalation,  
6 ingestion, or any other means.

7       **Sec. 5.** RCW 69.50.509 and 1987 c 202 s 228 are each amended to  
8 read as follows:

9       If, upon the sworn complaint of any person, it shall be made to  
10 appear to any judge of the superior court, district court, or  
11 municipal court that there is probable cause to believe that any  
12 controlled substance is being used, manufactured, sold, bartered,  
13 exchanged, administered, dispensed, delivered, distributed, produced,  
14 knowingly possessed, given away, furnished or otherwise disposed of  
15 or kept in violation of the provisions of this chapter, such judge  
16 shall, with or without the approval of the prosecuting attorney,  
17 issue a warrant directed to any law enforcement officer of the state,  
18 commanding him or her to search the premises designated and described  
19 in such complaint and warrant, and to seize all controlled substances  
20 there found, together with the vessels in which they are contained,  
21 and all implements, furniture and fixtures used or kept for the  
22 illegal manufacture, sale, barter, exchange, administering,  
23 dispensing, delivering, distributing, producing, possessing, giving  
24 away, furnishing or otherwise disposing of such controlled  
25 substances, and to safely keep the same, and to make a return of said  
26 warrant within three days, showing all acts and things done  
27 thereunder, with a particular statement of all articles seized and  
28 the name of the person or persons in whose possession the same were  
29 found, if any, and if no person be found in the possession of said  
30 articles, the returns shall so state. The provisions of RCW 10.31.030  
31 as now or hereafter amended shall apply to actions taken pursuant to  
32 this chapter.

33       NEW SECTION. **Sec. 6.** A new section is added to chapter 43.43  
34 RCW to read as follows:

35       Subject to the availability of funds appropriated for this  
36 specific purpose, the Washington state patrol bureau of forensic  
37 laboratory services shall aim to complete the necessary analysis for  
38 any evidence submitted for a suspected violation of RCW 69.50.4011(1)

(b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) within 45 days of receipt of the request for analysis.

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

## Part II - Relating to Drug Paraphernalia

**Sec. 7.** RCW 69.50.4121 and 2022 c 16 s 92 are each amended to read as follows:

(1) Every person who sells (~~(or gives,)~~) or permits to be sold (~~(or given)~~) to any person any drug paraphernalia in any form commits a class I civil infraction under chapter 7.80 RCW. For purposes of this subsection, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, (~~(testing, — analyzing,)~~) packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance other than cannabis. Drug paraphernalia includes, but is not limited to objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cocaine into the human body, such as:

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

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Miniature cocaine spoons and cocaine vials;

(f) Chamber pipes;

(g) Carburetor pipes;

(h) Electric pipes;

(i) Air-driven pipes; and

(j) Ice pipes or chillers.

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

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

**NEW SECTION.** **Sec. 8.** A new section is added to chapter 69.50 RCW to read as follows:

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

(2) Nothing in this chapter shall be construed to prohibit cities or counties from enacting laws or ordinances relating to the establishment or regulation of harm reduction services concerning drug paraphernalia.

**Part III - Providing Opportunities for Pretrial Diversion Pursuant to RCW 71.24.115, 36.28A.450, and 71.24.589 and Vacating Convictions**

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

1 (1) Nothing in this section prevents the defendant, with the  
2 consent of the prosecuting attorney as required by RCW 2.30.030, from  
3 seeking to resolve charges under RCW 69.50.4011(1) (b) or (c),  
4 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) through available  
5 therapeutic courts or other alternatives to prosecution including,  
6 but not limited to, a stipulated order of continuance or deferred  
7 prosecution. Nothing in this section prevents the defendant or the  
8 prosecuting attorney from seeking or agreeing to, or the court from  
9 ordering, any other resolution of charges or terms of supervision  
10 that suit the circumstances of the defendant's situation and advance  
11 stabilization, recovery, crime reduction, and justice.

12 (2) In any jurisdiction with a recovery navigator program  
13 established under RCW 71.24.115, an arrest and jail alternative  
14 program established under RCW 36.28A.450, or a law enforcement  
15 assisted diversion program established under RCW 71.24.589, any  
16 defendant charged with a violation of RCW 69.50.4011(1) (b) or (c),  
17 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) may make a motion  
18 to participate in pretrial diversion and agree to waive his or her  
19 right to a speedy trial if the motion is granted, subject to the  
20 following:

21 (a) In any case where the defendant is only charged with a  
22 violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or  
23 69.41.030(2) (b) or (c), and the defendant has not been convicted of  
24 any offenses committed after the effective date of this section, the  
25 court shall grant the motion, continue the hearing, and refer the  
26 defendant to a recovery navigator program established under RCW  
27 71.24.115, an arrest and jail alternative program established under  
28 RCW 36.28A.450, or a law enforcement assisted diversion program  
29 established under RCW 71.24.589.

30 (b) In any case where the defendant does not meet the criteria  
31 described in (a) of this subsection, the court may grant the motion,  
32 continue the hearing, and refer the defendant to a recovery navigator  
33 program established under RCW 71.24.115, an arrest and jail  
34 alternative program established under RCW 36.28A.450, or a law  
35 enforcement assisted diversion program established under RCW  
36 71.24.589.

37 (c) In all cases, the court may not grant the motion unless the  
38 prosecuting attorney consents to the defendant's participation in  
39 pretrial diversion. The prosecuting attorney is strongly encouraged  
40 to agree to diversion in any case where the defendant is only charged

1 with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013,  
2 69.50.4014, or 69.41.030(2) (b) or (c). The prosecuting attorney may  
3 divert additional charges related to substance use disorder for  
4 nonfelony offenses that are not crimes against persons.

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

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

9 (b) A general explanation of the roles and authority of the  
10 probation department, the prosecuting attorney, the recovery  
11 navigator program under RCW 71.24.115, arrest and jail alternative  
12 program under RCW 36.28A.450, or law enforcement assisted diversion  
13 program under RCW 71.24.589, and the court in the process;

14 (c) A clear statement that the court may grant pretrial diversion  
15 with respect to any offense under RCW 69.50.4011(1) (b) or (c),  
16 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) that is charged,  
17 provided that the defendant pleads not guilty to the charge or  
18 charges and waives his or her right to a speedy trial, and that upon  
19 the defendant's successful completion of pretrial diversion, as  
20 specified in subsection (11) of this section, and motion of the  
21 defendant, prosecuting attorney, court, or probation department, the  
22 court must dismiss the charge or charges against the defendant;

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

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

33 (f) A clear statement that under federal law it is unlawful for  
34 any person who is an unlawful user of or addicted to any controlled  
35 substance to ship or transport in interstate or foreign commerce, or  
36 possess in or affecting commerce, any firearm or ammunition, or to  
37 receive any firearm or ammunition which has been shipped or  
38 transported in interstate or foreign commerce.

39 (4) If the court grants the defendant's motion to participate in  
40 pretrial diversion under this section, the recovery navigator program

1 established under RCW 71.24.115, the arrest and jail alternative  
2 program established under RCW 36.28A.450, or the law enforcement  
3 assisted diversion program established under RCW 71.24.589, shall  
4 provide the court written confirmation of completion of the  
5 assessment and a statement indicating the defendant's enrollment or  
6 referral to any specific service or program. The confirmation and  
7 statement of the recovery navigator program established under RCW  
8 71.24.115, the arrest and jail alternative program established under  
9 RCW 36.28A.450, or the law enforcement assisted diversion program  
10 established under RCW 71.24.589 shall be filed under seal with the  
11 court, and a copy shall be given to the prosecuting attorney,  
12 defendant, and defendant's counsel. The confirmation and statement  
13 are confidential and exempt from disclosure under chapter 42.56 RCW.  
14 The court shall endeavor to avoid public discussion of the  
15 circumstances, history, or diagnoses that could stigmatize the  
16 defendant.

17 (5) Subject to the availability of funds appropriated for this  
18 specific purpose, the assessment and recommended treatment or  
19 services must be provided at no cost for defendants who have been  
20 found to be indigent by the court.

21 (6) If the assessment conducted by the recovery navigator program  
22 established under RCW 71.24.115, the arrest and jail alternative  
23 program established under RCW 36.28A.450, or the law enforcement  
24 assisted diversion program established under RCW 71.24.589 includes a  
25 referral to any treatment or services, the recovery navigator program  
26 established under RCW 71.24.115, the arrest and jail alternative  
27 program established under RCW 36.28A.450, the law enforcement  
28 assisted diversion program established under RCW 71.24.589, or  
29 service provider shall provide the court with regular written status  
30 updates on the defendant's progress on a schedule acceptable to the  
31 court. The updates must be provided at least monthly and be filed  
32 under seal with the court, with copies given to the prosecuting  
33 attorney, defendant, and defendant's counsel. The updates and their  
34 copies are confidential and exempt from disclosure under chapter  
35 42.56 RCW. The court shall endeavor to avoid public discussion of the  
36 circumstances, history, or diagnoses that could stigmatize the  
37 defendant.

38 (7) If the assessment conducted by the recovery navigator program  
39 established under RCW 71.24.115, the arrest and jail alternative  
40 program established under RCW 36.28A.450, or the law enforcement



1 assisted diversion program established under RCW 71.24.589 does not  
2 recommend any treatment or services, the defendant must instead  
3 complete an amount of community service as determined by the court,  
4 but not to exceed 120 hours of community service, in order to  
5 complete pretrial diversion.

6 (8) Admissions made by the individual in the course of receiving  
7 services from the recovery navigator program established under RCW  
8 71.24.115, the arrest and jail alternative program established under  
9 RCW 36.28A.450, or the law enforcement assisted diversion program  
10 established under RCW 71.24.589 may not be used against the  
11 individual in the prosecution's case in chief.

12 (9) A defendant's participation in pretrial diversion under this  
13 section does not constitute a conviction, a stipulation to facts, or  
14 an admission of guilt for any purpose.

15 (10) If it appears to the prosecuting attorney that the defendant  
16 is not substantially complying with the recommended treatment or  
17 services as reflected by a written status update, the prosecuting  
18 attorney may make a motion for termination from pretrial diversion.

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

21 (b) Before the hearing, the defendant and the defendant's counsel  
22 shall be advised of the nature of the alleged noncompliance and  
23 provided discovery of evidence supporting the allegation, including  
24 names and contact information of witnesses.

25 (c) At the hearing, the court must consider the following  
26 factors:

27 (i) The nature of the alleged noncompliance; and

28 (ii) Any other mitigating circumstances, including, but not  
29 limited to, the defendant's efforts and due diligence, the  
30 availability of services in the geographic area, and the treatment  
31 and services offered to the defendant.

32 (d) If the court finds the defendant is not substantially  
33 complying with the recommended treatment or services and thereafter  
34 terminates pretrial diversion, it shall state the grounds for its  
35 decision succinctly in the record and provide the prosecuting  
36 attorney, the defendant, and the defendant's counsel with a written  
37 order.

38 (11) If the defendant successfully completes pretrial diversion,  
39 including in one of the following ways, the charge or charges under

1 RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2)  
2 (b) or (c) must be dismissed:

3 (a) If the assessment prepared by the recovery navigator program,  
4 arrest and jail alternative program, or law enforcement assisted  
5 diversion program included a recommendation for treatment or  
6 services, the defendant successfully completes pretrial diversion  
7 either by having 12 months of substantial compliance with the  
8 assessment and recommended treatment or services and progress toward  
9 recovery goals as reflected by the written status updates or by  
10 successfully completing the recommended treatment or services,  
11 whichever occurs first; or

12 (b) If the assessment prepared by the recovery navigator program,  
13 arrest and jail alternative program, or law enforcement assisted  
14 diversion program did not include a recommendation for treatment or  
15 services, the defendant successfully completes pretrial diversion by  
16 completing the community service described in subsection (7) of this  
17 section and submitting proof of completion to the court.

18 (12) Beginning January 1, 2025, the recovery navigator programs  
19 established under RCW 71.24.115, arrest and jail alternative programs  
20 established under RCW 36.28A.450, and law enforcement assisted  
21 diversion programs established under RCW 71.24.589 shall input data  
22 and information in the data integration platform under section 22 of  
23 this act for each case where the defendant participates in pretrial  
24 diversion under this section, including but not limited to the  
25 following:

26 (a) Whether the pretrial diversion was terminated or was  
27 successfully completed and resulted in a dismissal;

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

30 (c) Any other appropriate data and information as determined by  
31 the health care authority.

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

34 When sentencing an individual for a violation of RCW  
35 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b)  
36 or (c), the court is encouraged to utilize any other resolution of  
37 the charges or terms of supervision that suit the circumstances of  
38 the defendant's situation and advance stabilization, recovery, crime  
39 reduction, and justice.

1       **Sec. 11.** RCW 9.96.060 and 2022 c 16 s 7 are each amended to read  
2 as follows:

3       (1) When vacating a conviction under this section, the court  
4 effectuates the vacation by: (a)(i) Permitting the applicant to  
5 withdraw the applicant's plea of guilty and to enter a plea of not  
6 guilty; or (ii) if the applicant has been convicted after a plea of  
7 not guilty, the court setting aside the verdict of guilty; and (b)  
8 the court dismissing the information, indictment, complaint, or  
9 citation against the applicant and vacating the judgment and  
10 sentence.

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

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

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

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

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

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

1 (f) The applicant was convicted of a misdemeanor or gross  
2 misdemeanor offense as defined in RCW 10.99.020, or the court  
3 determines after a review of the court file that the offense was  
4 committed by one family or household member against another or by one  
5 intimate partner against another, or the court, after considering the  
6 damage to person or property that resulted in the conviction, any  
7 prior convictions for crimes defined in RCW 10.99.020, or for  
8 comparable offenses in another state or in federal court, and the  
9 totality of the records under review by the court regarding the  
10 conviction being considered for vacation, determines that the offense  
11 involved domestic violence, and any one of the following factors  
12 exist:

13 (i) The applicant has not provided written notification of the  
14 vacation petition to the prosecuting attorney's office that  
15 prosecuted the offense for which vacation is sought, or has not  
16 provided that notification to the court;

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

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

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

30 (g) For any offense other than those described in (f) of this  
31 subsection, less than three years have passed since the person  
32 completed the terms of the sentence, including any financial  
33 obligations;

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

37 (i) The applicant is currently restrained by a domestic violence  
38 protection order, a no-contact order, an antiharassment order, or a  
39 civil restraining order which restrains one party from contacting the  
40 other party or was previously restrained by such an order and was

1 found to have committed one or more violations of the order in the  
2 five years prior to the vacation application.

3 (3) If the applicant is a victim of sex trafficking,  
4 prostitution, or commercial sexual abuse of a minor; sexual assault;  
5 or domestic violence as defined in RCW 9.94A.030, or the prosecutor  
6 applies on behalf of the state, the sentencing court may vacate the  
7 record of conviction if the application satisfies the requirements of  
8 RCW 9.96.080. When preparing or filing the petition, the prosecutor  
9 is not deemed to be providing legal advice or legal assistance on  
10 behalf of the victim, but is fulfilling an administrative function on  
11 behalf of the state in order to further their responsibility to seek  
12 to reform and improve the administration of criminal justice. A  
13 record of conviction vacated using the process in RCW 9.96.080 is  
14 subject to subsections ~~((4) and))~~ (7) and (8) of this section.

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

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

29 (b) The state has been enjoined from taking enforcement action of  
30 the statute or rule to the extent that it interferes with a treaty  
31 Indian fishing right as determined under *United States v. Washington*,  
32 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp.  
33 899 (D. Oregon 1969), and any posttrial orders of those courts, or  
34 any other state supreme court or federal court decision.

35 (5) Every person convicted of a misdemeanor cannabis offense, who  
36 was ~~((twenty-one))~~ 21 years of age or older at the time of the  
37 offense, may apply to the sentencing court for a vacation of the  
38 applicant's record of conviction for the offense. A misdemeanor  
39 cannabis offense includes, but is not limited to: Any offense under  
40 RCW 69.50.4014, from July 1, 2004, onward, and its predecessor

1 statutes, including RCW 69.50.401(e), from March 21, 1979, to July 1,  
2 2004, and RCW 69.50.401(d), from May 21, 1971, to March 21, 1979, and  
3 any offense under an equivalent municipal ordinance. If an applicant  
4 qualifies under this subsection, the court shall vacate the record of  
5 conviction.

6 (6) If a person convicted of violating RCW 69.50.4011(1) (b) or  
7 (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) completes a  
8 substance use disorder program and files proof of completion with the  
9 court, or obtains an assessment from a recovery navigator program  
10 established under RCW 71.24.115, an arrest and jail alternative  
11 program established under RCW 36.28A.450, or a law enforcement  
12 assisted diversion program established under RCW 71.24.589, and has  
13 six months of substantial compliance with recommended treatment or  
14 services and progress toward recovery goals as reflected by a written  
15 status update, upon verification the court must vacate the conviction  
16 or convictions.

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

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

36 (b) When a court vacates a record of domestic violence as defined  
37 in RCW 10.99.020 under this section, the state may not use the  
38 vacated conviction in a later criminal prosecution unless the  
39 conviction was for: (i) Violating the provisions of a restraining  
40 order, no-contact order, or protection order restraining or enjoining

1 the person or restraining the person from going on to the grounds of  
2 or entering a residence, workplace, school, or day care, or  
3 prohibiting the person from knowingly coming within, or knowingly  
4 remaining within, a specified distance of a location, a protected  
5 party's person, or a protected party's vehicle (RCW 10.99.040,  
6 10.99.050, 26.09.300, 26.26B.050, 26.44.063, 26.44.150, or 26.52.070,  
7 or any of the former RCW 26.50.060, 26.50.070, 26.50.130, and  
8 74.34.145); (ii) stalking (RCW 9A.46.110); or (iii) a domestic  
9 violence protection order or vulnerable adult protection order  
10 entered under chapter 7.105 RCW. A vacated conviction under this  
11 section is not considered a conviction of such an offense for the  
12 purposes of 27 C.F.R. 478.11.

13 (c) A conviction vacated on or after July 28, 2019, qualifies as  
14 a prior conviction for the purpose of charging a present recidivist  
15 offense as defined in RCW 9.94A.030 occurring on or after July 28,  
16 2019.

17 ~~((+8+))~~ (9) The clerk of the court in which the vacation order is  
18 entered shall immediately transmit the order vacating the conviction  
19 to the Washington state patrol identification section and to the  
20 local police agency, if any, which holds criminal history information  
21 for the person who is the subject of the conviction. The Washington  
22 state patrol and any such local police agency shall immediately  
23 update their records to reflect the vacation of the conviction, and  
24 shall transmit the order vacating the conviction to the federal  
25 bureau of investigation. A conviction that has been vacated under  
26 this section may not be disseminated or disclosed by the state patrol  
27 or local law enforcement agency to any person, except other criminal  
28 justice enforcement agencies.

29 ~~((+9+))~~ (10) For the purposes of this section, "cannabis" has the  
30 meaning provided in RCW 69.50.101.

#### 31 **Part IV - Opioid Treatment Rural Access and Expansion**

32 **Sec. 12.** RCW 36.70A.200 and 2021 c 265 s 2 are each amended to  
33 read as follows:

34 (1)(a) The comprehensive plan of each county and city that is  
35 planning under RCW 36.70A.040 shall include a process for identifying  
36 and siting essential public facilities. Essential public facilities  
37 include those facilities that are typically difficult to site, such  
38 as airports, state education facilities and state or regional

1 transportation facilities as defined in RCW 47.06.140, regional  
2 transit authority facilities as defined in RCW 81.112.020, state and  
3 local correctional facilities, solid waste handling facilities,  
4 opioid treatment programs including both mobile and fixed-site  
5 medication units, recovery residences, harm reduction programs  
6 excluding safe injection sites, and inpatient facilities including  
7 substance ((abuse)) use disorder treatment facilities, mental health  
8 facilities, group homes, community facilities as defined in RCW  
9 72.05.020, and secure community transition facilities as defined in  
10 RCW 71.09.020.

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

20 (c) The department of children, youth, and families may not  
21 attempt to site new community facilities as defined in RCW 72.05.020  
22 east of the crest of the Cascade mountain range unless there is an  
23 equal or greater number of sited community facilities as defined in  
24 RCW 72.05.020 on the western side of the crest of the Cascade  
25 mountain range.

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

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

39 (3) Any city or county not planning under RCW 36.70A.040 shall,  
40 not later than September 1, 2002, establish a process for siting



1 secure community transition facilities and adopt or amend its  
2 development regulations as necessary to provide for the siting of  
3 such facilities consistent with statutory requirements applicable to  
4 these facilities.

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

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

11 (6) No person may bring a cause of action for civil damages based  
12 on the good faith actions of any county or city to provide for the  
13 siting of secure community transition facilities in accordance with  
14 this section and with the requirements of chapter 12, Laws of 2001  
15 2nd sp. sess. For purposes of this subsection, "person" includes, but  
16 is not limited to, any individual, agency as defined in RCW  
17 42.17A.005, corporation, partnership, association, and limited  
18 liability entity.

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

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

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

25 (b) A consideration for grants or loans provided under RCW  
26 43.17.250(3); or

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

29 **Sec. 13.** RCW 71.24.589 and 2019 c 314 s 29 are each amended to  
30 read as follows:

31 (1) Subject to funds appropriated by the legislature, the  
32 authority shall ~~((implement a pilot project))~~ administer a grant  
33 program for law enforcement assisted diversion which shall adhere to  
34 law enforcement assisted diversion core principles recognized by the  
35 law enforcement assisted diversion national support bureau, the  
36 efficacy of which have been demonstrated in peer-reviewed research  
37 studies.

38 (2) ~~((Under the pilot project, the))~~ The authority must partner  
39 with the law enforcement assisted diversion national support bureau

1 to award ~~((a contract))~~ contracts, subject to appropriation, for  
2 ~~((two or more geographic areas))~~ jurisdictions in the state of  
3 Washington for law enforcement assisted diversion. Cities, counties,  
4 and tribes ~~((may compete for participation in a pilot project))~~,  
5 subdivisions thereof, public development authorities, and community-  
6 based organizations demonstrating support from necessary public  
7 partners, may serve as the lead agency applying for funding. Funds  
8 may be used to scale existing projects, and to invite additional  
9 jurisdictions to launch law enforcement assisted diversion programs.

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

18 (4) The key elements of a law enforcement assisted diversion  
19 ~~((pilot project))~~ program must include:

20 (a) Long-term case management for individuals with substance use  
21 disorders;

22 (b) Facilitation and coordination with community resources  
23 focusing on overdose prevention;

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

26 (d) Facilitation and coordination with community resources  
27 providing physical and behavioral health services;

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

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

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

34 (h) Prosecutorial support for diversion services.

35 (5) No civil liability may be imposed by any court on the state  
36 or its officers or employees, an appointed or elected official,  
37 public employee, public agency as defined in RCW 4.24.470,  
38 combination of units of government and its employees as provided in  
39 RCW 36.28A.010, nonprofit community-based organization, tribal  
40 government entity, tribal organization, or urban Indian organization,

1 based on the administration of a law enforcement assisted diversion  
2 program or activities carried out within the purview of a grant  
3 received under this program except upon proof of bad faith or gross  
4 negligence.

5       **Sec. 14.** RCW 71.24.590 and 2019 c 314 s 30 are each amended to  
6 read as follows:

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

10       (a) Consult with the county legislative authorities in the area  
11 in which an applicant proposes to locate a program and the city  
12 legislative authority in any city in which an applicant proposes to  
13 locate a program;

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

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

25       (d) Consider the size of the population in need of treatment in  
26 the area in which the program would be located and license or certify  
27 only applicants whose programs meet the necessary treatment needs of  
28 that population;

29       (e) Consider the availability of other certified opioid treatment  
30 programs near the area in which the applicant proposes to locate the  
31 program;

32       (f) Consider the transportation systems that would provide  
33 service to the program and whether the systems will provide  
34 reasonable opportunities to access the program for persons in need of  
35 treatment;

36       (g) Consider whether the applicant has, or has demonstrated in  
37 the past, the capability to provide the appropriate services to  
38 assist the persons who utilize the program in meeting goals  
39 established by the legislature in RCW 71.24.585. The department shall

1 prioritize licensing or certification to applicants who have  
2 demonstrated such capability and are able to measure their success in  
3 meeting such outcomes;

4 ~~(h) ((Held one public hearing in the community in which the~~  
5 ~~facility is proposed to be located. The hearing shall be held at a~~  
6 ~~time and location that are most likely to permit the largest number~~  
7 ~~of interested persons to attend and present testimony. The department~~  
8 ~~shall notify all appropriate media outlets of the time, date, and~~  
9 ~~location of the hearing at least three weeks in advance of the~~  
10 ~~hearing))~~ Provide public notice to all appropriate media outlets in  
11 the community in which the facility is proposed to be located that  
12 states the applicant is proposing a facility in that community.

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

17 (3) A program applying for licensing or certification from the  
18 department and a program applying for a contract from a state agency  
19 that has been denied the licensing or certification or contract shall  
20 be provided with a written notice specifying the rationale and  
21 reasons for the denial.

22 (4) Opioid treatment programs may order, possess, dispense, and  
23 administer medications approved by the United States food and drug  
24 administration for the treatment of opioid use disorder, alcohol use  
25 disorder, tobacco use disorder, and reversal of opioid overdose. For  
26 an opioid treatment program to order, possess, and dispense any other  
27 legend drug, including controlled substances, the opioid treatment  
28 program must obtain additional licensure as required by the  
29 department, except for patient-owned medications.

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

32 (6) Registered nurses and licensed practical nurses may dispense  
33 up to a ~~((thirty-one))~~ 31 day supply of medications approved by the  
34 United States food and drug administration for the treatment of  
35 opioid use disorder to patients of the opioid treatment program,  
36 under an order or prescription and in compliance with 42 C.F.R. Sec.  
37 8.12.

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

1       (8) For the purpose of this chapter, "opioid treatment program"  
2 means a program that:

3       (a) Engages in the treatment of opioid use disorder with  
4 medications approved by the United States food and drug  
5 administration for the treatment of opioid use disorder and reversal  
6 of opioid overdose, including methadone; and

7       (b) Provides a comprehensive range of medical and rehabilitative  
8 services.

9       NEW SECTION. Sec. 15. A new section is added to chapter 43.330  
10 RCW to read as follows:

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

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

20       NEW SECTION. Sec. 16. RCW 10.31.115 (Drug possession—Referral  
21 to assessment and services) and 2021 c 311 s 13 are each repealed.

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

23       NEW SECTION. Sec. 17. A new section is added to chapter 71.24  
24 RCW to read as follows:

25       Subject to the availability of funds appropriated for this  
26 specific purpose, the authority shall:

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

30       (2) Establish a voucher program to allow accredited recovery  
31 housing operators to hold bed space for individuals who are waiting  
32 for treatment;

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

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

8 **Sec. 18.** RCW 84.36.043 and 1998 c 174 s 1 are each amended to  
9 read as follows:

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

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

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

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

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

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

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

27 (ii) The property is rented or leased by the nonprofit  
28 organization and the benefit of the exemption inures to the nonprofit  
29 organization.

30 (3) As used in this section:

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

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

37 (c) "Transitional housing" means a project that provides housing  
38 and supportive services to homeless persons or families for up to two

1 years and that has as its purpose facilitating the movement of  
2 homeless persons and families into independent living.

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

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

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

9 NEW SECTION. **Sec. 19.** (1) This section is the tax preference  
10 performance statement for the tax preference contained in section 18,  
11 chapter . . ., Laws of 2023 (section 18 of this act). This  
12 performance statement is only intended to be used for subsequent  
13 evaluation of the tax preference. It is not intended to create a  
14 private right of action by any party or to be used to determine  
15 eligibility for preferential tax treatment.

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

19 (3) By exempting property used by nonprofit organizations  
20 maintaining approved recovery residences, it is the legislature's  
21 specific public policy objective to maximize funding for recovery  
22 residences to the extent possible, thereby increasing availability of  
23 such residences.

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

28 (a) Annual changes in the total number of parcels qualifying for  
29 the exemption under section 18 of this act;

30 (b) The amount of annual property tax relief resulting from the  
31 tax exemption under section 18 of this act;

32 (c) The average annual number of people housed at recovery  
33 residences located on property qualifying for the exemption under  
34 section 18 of this act;

35 (d) The annualized amount charged for housing at recovery  
36 residences located on property qualifying for the exemption under  
37 section 18 of this act and the annualized estimated increase in the  
38 charge for housing if the properties had not been eligible for the  
39 exemption; and

1 (e) The annual amount of expenditures by nonprofits to maintain  
2 recovery residences located on property qualifying for the exemption  
3 under section 18 of this act.

4 (5) The legislature intends to extend the expiration date of the  
5 property tax exemption under section 18 of this act if the review by  
6 the joint legislative audit and review committee finds that:

7 (a) The number of properties qualifying for the exemption under  
8 section 18 of this act has increased;

9 (b) The number of individuals using recovery housing located on  
10 property qualifying for the exemption under section 18 of this act  
11 has increased; and

12 (c) The amount charged for recovery housing is reasonably  
13 consistent with the actual cost of operating and maintaining the  
14 housing.

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

18 (a) Initial applications for the tax exemption under section 18  
19 of this act as approved by the department of revenue under RCW  
20 84.36.815;

21 (b) Annual financial statements prepared by nonprofit entities  
22 claiming the tax exemption under section 18 of this act;

23 (c) Filings with the federal government to maintain federal tax  
24 exempt status by nonprofit organizations claiming the tax exemption  
25 under section 18 of this act; and

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

28 **Part VI – Training for Parents of Children with Substance Use Disorder**  
29 **and Caseworkers Within the Department of Children, Youth, and**  
30 **Families**

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

33 (1) The authority, in consultation with the department of  
34 children, youth, and families, shall develop a training for parents  
35 of adolescents and transition age youth with substance use disorders  
36 by June 30, 2024, which training must build on and be consistent and  
37 compatible with existing training developed by the authority for



families impacted by substance use disorder, and addressing the following:

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

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

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

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

(e) Suicide prevention.

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

**NEW SECTION.** **Sec. 21.** A new section is added to chapter 43.216 RCW to read as follows:

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

## **Part VII - Recovery Navigator Programs**

**NEW SECTION.** **Sec. 22.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority must develop and implement a data integration platform by June 30, 2025, to support recovery navigator programs, law enforcement assisted diversion programs, arrest and jail alternative programs, and similar diversion efforts. The data integration platform shall:

(a) Serve as a statewide common database available for tracking diversion efforts across the state;

(b) Serve as a data collection and management tool for practitioners, allowing practitioners to input data and information relating to the utilization and outcomes of pretrial diversions,

1 including whether such diversions were terminated, were successfully  
2 completed and resulted in dismissal, or are still ongoing;

3 (c) Assist in standardizing definitions and practices; and

4 (d) Track pretrial diversion participants by race, ethnicity,  
5 gender, gender expression or identity, disability status, and age.

6 (2) If possible, the authority must leverage and interact with  
7 existing platforms already in use in efforts funded by the authority.  
8 The authority must establish a quality assurance process for  
9 behavioral health administrative services organizations and employ  
10 data validation for fields in the data collection workbook. The  
11 authority must engage and consult with the law enforcement assisted  
12 diversion national support bureau on data integration approaches,  
13 platforms, quality assurance protocols, and validation practices.

14 (3) Information submitted to the data integration platform is  
15 exempt from public disclosure requirements under chapter 42.56 RCW.

16 **Sec. 23.** RCW 42.56.360 and 2020 c 323 s 2 are each amended to  
17 read as follows:

18 (1) The following health care information is exempt from  
19 disclosure under this chapter:

20 (a) Information obtained by the pharmacy quality assurance  
21 commission as provided in RCW 69.45.090;

22 (b) Information obtained by the pharmacy quality assurance  
23 commission or the department of health and its representatives as  
24 provided in RCW 69.41.044, 69.41.280, and 18.64.420;

25 (c) Information and documents created specifically for, and  
26 collected and maintained by a quality improvement committee under RCW  
27 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee  
28 under RCW 4.24.250, or by a quality assurance committee pursuant to  
29 RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW  
30 43.70.056, for reporting of health care-associated infections under  
31 RCW 43.70.056, a notification of an incident under RCW 70.56.040(5),  
32 and reports regarding adverse events under RCW 70.56.020(2)(b),  
33 regardless of which agency is in possession of the information and  
34 documents;

35 (d)(i) Proprietary financial and commercial information that the  
36 submitting entity, with review by the department of health,  
37 specifically identifies at the time it is submitted and that is  
38 provided to or obtained by the department of health in connection

1 with an application for, or the supervision of, an antitrust  
2 exemption sought by the submitting entity under RCW 43.72.310;

3 (ii) If a request for such information is received, the  
4 submitting entity must be notified of the request. Within ten  
5 business days of receipt of the notice, the submitting entity shall  
6 provide a written statement of the continuing need for  
7 confidentiality, which shall be provided to the requester. Upon  
8 receipt of such notice, the department of health shall continue to  
9 treat information designated under this subsection (1)(d) as exempt  
10 from disclosure;

11 (iii) If the requester initiates an action to compel disclosure  
12 under this chapter, the submitting entity must be joined as a party  
13 to demonstrate the continuing need for confidentiality;

14 (e) Records of the entity obtained in an action under RCW  
15 18.71.300 through 18.71.340;

16 (f) Complaints filed under chapter 18.130 RCW after July 27,  
17 1997, to the extent provided in RCW 18.130.095(1);

18 (g) Information obtained by the department of health under  
19 chapter 70.225 RCW;

20 (h) Information collected by the department of health under  
21 chapter 70.245 RCW except as provided in RCW 70.245.150;

22 (i) Cardiac and stroke system performance data submitted to  
23 national, state, or local data collection systems under RCW  
24 70.168.150(2)(b);

25 (j) All documents, including completed forms, received pursuant  
26 to a wellness program under RCW 41.04.362, but not statistical  
27 reports that do not identify an individual;

28 (k) Data and information exempt from disclosure under RCW  
29 43.371.040; ~~((and))~~

30 (l) Medical information contained in files and records of members  
31 of retirement plans administered by the department of retirement  
32 systems or the law enforcement officers' and firefighters' plan 2  
33 retirement board, as provided to the department of retirement systems  
34 under RCW 41.04.830; and

35 (m) Data submitted to the data integration platform under section  
36 22 of this act.

37 (2) Chapter 70.02 RCW applies to public inspection and copying of  
38 health care information of patients.

1 (3) (a) Documents related to infant mortality reviews conducted  
2 pursuant to RCW 70.05.170 are exempt from disclosure as provided for  
3 in RCW 70.05.170(3).

4 (b) (i) If an agency provides copies of public records to another  
5 agency that are exempt from public disclosure under this subsection  
6 (3), those records remain exempt to the same extent the records were  
7 exempt in the possession of the originating entity.

8 (ii) For notice purposes only, agencies providing exempt records  
9 under this subsection (3) to other agencies may mark any exempt  
10 records as "exempt" so that the receiving agency is aware of the  
11 exemption, however whether or not a record is marked exempt does not  
12 affect whether the record is actually exempt from disclosure.

13 (4) Information and documents related to maternal mortality  
14 reviews conducted pursuant to RCW 70.54.450 are confidential and  
15 exempt from public inspection and copying.

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

18 (1) The authority shall contract with the Washington state  
19 institute for public policy to conduct a study of the long-term  
20 effectiveness of the recovery navigator programs under RCW 71.24.115  
21 and law enforcement assisted diversion programs under RCW 71.24.589  
22 implemented in Washington state, with reports due by June 30, 2028,  
23 June 30, 2033, and June 30, 2038, and an assessment as described  
24 under subsection (2) of this section. The Washington state institute  
25 for public policy shall collaborate with the authority and the  
26 substance use recovery services advisory committee under RCW  
27 71.24.546 on the topic of data collection and to determine the  
28 parameters of the report, which shall include:

29 (a) Recidivism rates for recovery navigator and law enforcement  
30 assisted diversion program participants, including a comparison  
31 between individuals who did and did not use the pretrial diversion  
32 program under section 9 of this act, and outcomes for these  
33 individuals;

34 (b) Trends or disparities in utilization of the recovery  
35 navigator and LEAD programs and outcomes based on race, ethnicity,  
36 gender, gender expression or identity, disability status, age, and  
37 other appropriate characteristics; and

1 (c) Recommendations, if any, for modification and improvement of  
2 the recovery navigator program or law enforcement assisted diversion  
3 programs.

4 (2)(a) The Washington state institute for public policy shall, in  
5 consultation with the authority and other key stakeholders, conduct a  
6 descriptive assessment of the current status of statewide recovery  
7 navigator programs and the degree to which the implementation of  
8 these programs reflects fidelity to the core principles of the law  
9 enforcement assisted diversion program as established by the law  
10 enforcement assisted diversion national support bureau in its toolkit  
11 as it existed on July 1, 2023, which shall include:

12 (i) The results of the law enforcement assisted diversion  
13 standards fidelity index analysis, conducted by an independent  
14 research scientist with expertise in law enforcement assisted  
15 diversion evaluation, including findings with respect to each  
16 standard assessed, for each recovery navigator program, in each  
17 behavioral health administrative services organization region;

18 (ii) Reports on utilization of technical support from the law  
19 enforcement assisted diversion national support bureau by recovery  
20 navigator program contractors, the authority, and behavioral health  
21 administrative services organizations; and

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

23 (b) The report shall also describe law enforcement assisted  
24 diversion programs in Washington state that are not affiliated with  
25 recovery navigator programs.

26 (c) The report may include recommendations for changes to  
27 recovery navigator programs reported by recovery navigator program  
28 administrators, stakeholders, or participants.

29 (d) The authority, behavioral health administrative services  
30 organizations, and other recovery navigator program administrators  
31 shall cooperate with the institute in making this assessment.

32 (e) The institute shall submit this assessment to the governor  
33 and relevant committees of the legislature by June 30, 2024.

34 (3) The authority shall cooperate with the Washington state  
35 institute for public policy to provide data for the assessment and  
36 reports under this section.

37 (4) The authority must establish an expedited preapproval process  
38 by August 1, 2023, that allows requests for the use of data to be  
39 forwarded to the Washington state institutional review board without  
40 delay when the request is made by the Washington state institute for

1 public policy for the purpose of completing a study that has been  
2 directed by the legislature.

3 **Sec. 25.** RCW 71.24.115 and 2021 c 311 s 2 are each amended to  
4 read as follows:

5 (1) Each behavioral health administrative services organization  
6 shall establish ~~((a))~~ recovery navigator ~~((program))~~ programs with  
7 the goal of providing law enforcement and other criminal legal system  
8 personnel with a credible alternative to further legal system  
9 involvement for criminal activity that stems from unmet behavioral  
10 health needs or poverty. The programs shall work to improve community  
11 health and safety by reducing individuals' involvement with the  
12 criminal legal system through the use of specific human services  
13 tools and in coordination with community input. Each program must  
14 include a dedicated project manager and be governed by a policy  
15 coordinating group comprised, in alignment with the core principles,  
16 of local executive and legislative officials, public safety agencies,  
17 including police and prosecutors, and civil rights, public defense,  
18 and human services organizations.

19 (2) The recovery navigator programs shall be organized on a scale  
20 that permits meaningful engagement, collaboration, and coordination  
21 with local law enforcement and municipal agencies through the policy  
22 coordinating groups. The ~~((program))~~ programs shall provide  
23 community-based outreach, intake, assessment, and connection to  
24 services and, as appropriate, long-term intensive case management and  
25 recovery coaching services, to youth and adults with substance use  
26 disorder, including for persons with co-occurring substance use  
27 disorders and mental health conditions, who are referred to the  
28 program from diverse sources and shall facilitate and coordinate  
29 connections to a broad range of community resources for youth and  
30 adults with substance use disorder, including treatment and recovery  
31 support services. Recovery navigator programs must serve and  
32 prioritize individuals who are actually or potentially exposed to the  
33 criminal legal system with respect to unlawful behavior connected to  
34 substance use or other behavioral health issues.

35 ~~((2))~~ ~~The~~ (3) By June 30, 2024, the authority shall  
36 ~~((establish))~~ revise its uniform program standards for behavioral  
37 health administrative services organizations to follow in the design  
38 of their recovery navigator programs to achieve fidelity with the  
39 core principles. The uniform program standards must be modeled upon

1 the components of the law enforcement assisted diversion program and  
2 address project management, field engagement, biopsychosocial  
3 assessment, intensive case management and care coordination,  
4 stabilization housing when available and appropriate, and, as  
5 necessary, legal system coordination for participants' legal cases  
6 that may precede or follow referral to the program. The uniform  
7 program standards must incorporate the law enforcement assisted  
8 diversion framework for diversion at multiple points of engagement  
9 with the criminal legal system, including prearrest, prebooking,  
10 prefiling, and for ongoing case conferencing with law enforcement,  
11 prosecutors, community stakeholders, and program case managers. The  
12 authority must adopt the uniform program standards from the  
13 components of the law enforcement assisted diversion program to  
14 accommodate an expanded population of persons with substance use  
15 disorders, including persons with co-occurring substance use  
16 disorders and mental health conditions, ~~((and allow))~~ provide for  
17 referrals from a broad range of sources, and require prioritization  
18 of those who are or likely will be exposed to the criminal legal  
19 system related to their behavioral health challenges. In addition to  
20 accepting referrals from law enforcement and courts of limited  
21 jurisdiction, the uniform program standards must provide guidance for  
22 accepting referrals on behalf of persons with substance use  
23 disorders, including persons with co-occurring substance use  
24 disorders and mental health conditions, from various sources  
25 including, but not limited to, self-referral, family members of the  
26 individual, emergency department personnel, persons engaged with  
27 serving homeless persons, including those living unsheltered or in  
28 encampments, fire department personnel, emergency medical service  
29 personnel, community-based organizations, members of the business  
30 community, harm reduction program personnel, faith-based organization  
31 staff, and other sources within the criminal legal system, ~~((as~~  
32 ~~outlined))~~ so that individuals are engaged as early as possible  
33 within the sequential intercept model. In developing response time  
34 requirements within the statewide program standards, the authority  
35 shall require, subject to the availability of amounts appropriated  
36 for this specific purpose, that responses to referrals from law  
37 enforcement occur immediately for in-custody referrals and shall  
38 strive for rapid response times to other appropriate settings such as  
39 emergency departments and courts of limited jurisdiction.

1        ~~((43))~~ (4) Subject to the availability of amounts appropriated  
2 for this specific purpose, the authority shall provide funding to  
3 each behavioral health administrative services organization for the  
4 ~~((development of its))~~ continuation of and, as required by this  
5 section, the revisions to and reorganization of the recovery  
6 navigator ((program)) programs they fund. Before receiving funding  
7 for implementation and ongoing administration, each behavioral health  
8 administrative services organization must submit a program plan that  
9 demonstrates the ability to fully comply with statewide program  
10 standards. The authority shall establish a schedule for the regular  
11 review of recovery navigator programs funded by behavioral health  
12 administrative services ((organizations' programs)) organizations.  
13 The authority shall arrange for technical assistance to be provided  
14 by the LEAD national support bureau to all behavioral health  
15 administrative services organizations, the authority, contracted  
16 providers, and independent stakeholders and partners, such as  
17 prosecuting attorneys and law enforcement.

18        ~~((44))~~ (5) Each behavioral health administrative services  
19 organization must have a substance use disorder regional  
20 administrator for its recovery navigator program. The regional  
21 administrator shall be responsible for assuring compliance with  
22 program standards, including staffing standards. Each recovery  
23 navigator program must maintain a sufficient number of appropriately  
24 trained personnel for providing intake and referral services,  
25 conducting comprehensive biopsychosocial assessments, providing  
26 intensive case management services, and making warm handoffs to  
27 treatment and recovery support services along the continuum of care.  
28 Program staff must include people with lived experience with  
29 substance use disorder to the extent possible. The substance use  
30 disorder regional administrator must assure that staff who are  
31 conducting intake and referral services and field assessments are  
32 paid a livable and competitive wage and have appropriate initial  
33 training and receive continuing education.

34        ~~((45))~~ (6) Each recovery navigator program must submit quarterly  
35 reports to the authority with information identified by the authority  
36 and the substance use recovery services advisory committee. The  
37 reports must be provided to the substance use recovery services  
38 advisory committee for discussion at meetings following the  
39 submission of the reports.



1       (7) No civil liability may be imposed by any court on the state  
2 or its officers or employees, an appointed or elected official,  
3 public employee, public agency as defined in RCW 4.24.470,  
4 combination of units of government and its employees as provided in  
5 RCW 36.28A.010, nonprofit community-based organization, tribal  
6 government entity, tribal organization, or urban Indian organization,  
7 based on the administration of a recovery navigator program except  
8 upon proof of bad faith or gross negligence.

9       (8) For the purposes of this section, the term "core principles"  
10 means the core principles of a law enforcement assisted diversion  
11 program, as established by the law enforcement assisted diversion  
12 national support bureau in its toolkit, as it existed on July 1,  
13 2023.

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

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

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

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

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

29       (2) The authority shall develop payment structures for health  
30 engagement hubs by June 30, 2024. Subject to the availability of  
31 funds appropriated for this purpose, and to the extent allowed under  
32 federal law, the authority shall direct medicaid managed care  
33 organizations to adopt a value-based bundled payment methodology in  
34 contracts with health engagement hubs and other opioid treatment  
35 providers. The authority shall not implement this requirement in  
36 managed care contracts unless expressly authorized by the  
37 legislature.

38       (3) A health engagement hub is intended to:

1 (a) Serve as an all-in-one location where people 18 years of age  
2 or older who use drugs can access a range of medical, harm reduction,  
3 treatment, and social services;

4 (b) Be affiliated with existing syringe service programs,  
5 federally qualified health centers, community health centers,  
6 overdose prevention sites, safe consumption sites, patient-centered  
7 medical homes, tribal behavioral health programs, peer run  
8 organizations such as clubhouses, services for unhoused people,  
9 supportive housing, and opioid treatment programs including mobile  
10 and fixed-site medication units established under an opioid treatment  
11 program, or other appropriate entity;

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

14 (d) Function as a patient-centered medical home by offering high-  
15 quality, cost-effective patient-centered care, including wound care;

16 (e) Provide harm reduction services and supplies; and

17 (f) Provide linkage to housing, transportation, and other support  
18 services.

## 19 **Part IX - Education and Employment Pathways**

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

22 Subject to funding provided for this specific purpose, the  
23 authority shall establish a grant program for providers of  
24 employment, education, training, certification, and other supportive  
25 programs designed to provide persons recovering from a substance use  
26 disorder with employment and education opportunities. The grant  
27 program shall employ a low-barrier application and give priority to  
28 programs that engage with black, indigenous, persons of color, and  
29 other historically underserved communities.

## 30 **Part X - Providing a Statewide Directory of Recovery Services**

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

33 Subject to funding provided for this specific purpose, the  
34 authority must collaborate with the department and the department of  
35 social and health services to expand the Washington recovery helpline  
36 and the recovery readiness asset tool to provide a dynamically

1 updated statewide behavioral health treatment and recovery support  
2 services mapping tool that includes a robust resource database for  
3 those seeking services and a referral system to be incorporated  
4 within the locator tool to help facilitate the connection between an  
5 individual and a facility that is currently accepting new referrals.  
6 The tool must include dual interface capability, one for public  
7 access and one for internal use and management.

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

9 NEW SECTION. **Sec. 29.** The appropriations in this section are  
10 provided to the department of health and are subject to the following  
11 conditions and limitations:

12 The following sums, or so much thereof as may be necessary, are  
13 each appropriated: \$47,000 from the state general fund-local for the  
14 fiscal biennium ending June 30, 2025; and \$13,000 from the health  
15 professions account for the fiscal biennium ending June 30, 2025. The  
16 amounts in this section are provided solely for the department of  
17 health to adopt rules related to mobile medication units and conduct  
18 inspections for such units under RCW 71.24.590.

19 NEW SECTION. **Sec. 30.** The appropriations in this section are  
20 provided to the department of revenue and are subject to the  
21 following conditions and limitations:

22 The following sums, or so much thereof as may be necessary, are  
23 each appropriated: \$594,000 from the state general fund for the  
24 fiscal year ending June 30, 2024; and \$140,000 from the state general  
25 fund for the fiscal year ending June 30, 2025. The amounts in this  
26 section are provided solely for the department of revenue to  
27 administer the recovery residence tax exemption created in RCW  
28 84.36.043.

29 NEW SECTION. **Sec. 31.** The appropriation in this section is  
30 provided to the joint legislative audit and review committee and is  
31 subject to the following conditions and limitations:

32 The sum of \$23,000, or as much thereof as may be necessary, is  
33 appropriated for the fiscal biennium ending June 30, 2025, from the  
34 performance audits of government account. The amount in this section  
35 is provided solely for the purposes of conducting a tax preference

1 review of the property tax exemption for recovery residences under  
2 RCW 84.36.043.

3 NEW SECTION. **Sec. 32.** The appropriation in this section is  
4 provided to the Washington state patrol and is subject to the  
5 following conditions and limitations:

6 The following sums, or so much thereof as may be necessary, are  
7 each appropriated: \$813,000 from the state general fund for the  
8 fiscal year ending June 30, 2024; and \$450,000 from the state general  
9 fund for the fiscal year ending June 30, 2025. The amounts in this  
10 section are provided solely to support the Washington state patrol  
11 bureau of forensic laboratory services in completing the necessary  
12 analysis for any evidence submitted for a suspected violation of RCW  
13 69.50.4011(1)(b), 69.50.4013, or 69.41.030 within 45 days of receipt  
14 of the request for analysis.

15 NEW SECTION. **Sec. 33.** The appropriations in this section are  
16 provided to the state health care authority and are subject to the  
17 following conditions and limitations:

18 (1) The following sums, or so much thereof as may be necessary,  
19 are each appropriated: \$3,600,000 from the opioid abatement  
20 settlement account for the fiscal biennium ending June 30, 2025;  
21 \$700,000 from the state general fund for the fiscal year ending June  
22 30, 2024; and \$700,000 from the state general fund for the fiscal  
23 year ending June 30, 2025. The amounts in this subsection are  
24 provided solely for the purposes of maintaining a memorandum of  
25 understanding with the criminal justice training commission to  
26 provide ongoing funding for community grants under RCW 36.28A.450.

27 (2) The following sums, or so much thereof as may be necessary,  
28 are each appropriated: \$3,783,000 from the opioid abatement  
29 settlement account for the fiscal biennium ending June 30, 2025; and  
30 \$3,810,000 from the general fund-federal for the fiscal biennium  
31 ending June 30, 2025. The amounts in this subsection are provided  
32 solely for the administration of this act.

33 (3) The following sums, or so much thereof as may be necessary,  
34 are each appropriated: \$1,000,000 from the state general fund for the  
35 fiscal year ending June 30, 2024; and \$1,000,000 from the state  
36 general fund for the fiscal year ending June 30, 2025. The amounts in  
37 this subsection are provided solely for the authority to award grants  
38 to crisis services providers to establish and expand 23-hour crisis

1 relief center capacity. It is the intent of the legislature that  
2 grants are awarded to an equivalent number of providers to the west  
3 and the east of the Cascade mountains. The authority must consider  
4 the geographic distribution of proposed grant applicants and the  
5 regional need for 23-hour crisis relief centers when awarding grant  
6 funds.

7 (4) The sum of \$4,000,000, or as much thereof as may be  
8 necessary, is appropriated for the fiscal biennium ending June 30,  
9 2025, from the opioid abatement settlement account. The amount in  
10 this subsection is provided solely for the authority to establish a  
11 health engagement hub pilot program to include both urban and rural  
12 locations under section 26 of this act.

13 (5) The sum of \$3,768,000, or as much thereof as may be  
14 necessary, is appropriated for the fiscal biennium ending June 30,  
15 2025, from the opioid abatement settlement account. The amount in  
16 this subsection is provided solely for the authority to increase the  
17 number of mobile methadone units operated by existing opioid  
18 treatment providers, increase the number of opioid treatment provider  
19 fixed medication units operated by existing opioid treatment  
20 providers, and to expand opioid treatment programs with a  
21 prioritization for rural areas.

22 (6) The sum of \$5,242,000, or as much thereof as may be  
23 necessary, is appropriated for the fiscal biennium ending June 30,  
24 2025, from the opioid abatement settlement account. The amount in  
25 this subsection is provided solely for the authority to provide  
26 grants to providers of employment and educational services to  
27 individuals with substance use disorder under section 27 of this act.

28 (7) The following sums, or so much thereof as may be necessary,  
29 are each appropriated: \$750,000 from the state general fund for the  
30 fiscal year ending June 30, 2024; \$750,000 from the state general  
31 fund for the fiscal year ending June 30, 2025; and \$500,000 from the  
32 opioid abatement settlement account for the fiscal biennium ending  
33 June 30, 2025. The amounts in this subsection are provided solely for  
34 the authority to provide grants to support substance use disorder  
35 family navigator programs.

36 (8) The following sums, or so much thereof as may be necessary,  
37 are each appropriated: \$3,750,000 from the state general fund for the  
38 fiscal year ending June 30, 2024; and \$3,750,000 from the state  
39 general fund for the fiscal year ending June 30, 2025. The amounts in  
40 this subsection are provided solely for the authority to provide

1 short-term housing vouchers for individuals with substance use  
2 disorders, with a focus on providing such resources to people in the  
3 five most populous counties of the state.

4 (9) The following sums, or so much thereof as may be necessary,  
5 are each appropriated: \$2,000,000 from the state general fund for the  
6 fiscal year ending June 30, 2024; and \$2,000,000 from the state  
7 general fund for the fiscal year ending June 30, 2025. The amounts in  
8 this subsection are provided solely for the authority to provide  
9 grants for the operational costs of new staffed recovery residences  
10 which serve individuals with substance use disorders who require more  
11 support than a level 1 recovery residence, with a focus on providing  
12 grants to recovery residences which serve individuals in the five  
13 most populous counties of the state.

14 (10) The following sums, or so much thereof as may be necessary,  
15 are each appropriated: \$1,000,000 from the state general fund for the  
16 fiscal year ending June 30, 2024; and \$1,000,000 from the state  
17 general fund for the fiscal year ending June 30, 2025. The amounts in  
18 this subsection are provided solely for the authority to support the  
19 provision of behavioral health co-responder services on nonlaw  
20 enforcement emergency medical response teams.

21 (11) The following sums, or so much thereof as may be necessary,  
22 are each appropriated: \$250,000 from the state general fund for the  
23 fiscal year ending June 30, 2024; and \$250,000 from the state general  
24 fund for the fiscal year ending June 30, 2025. The amounts in this  
25 subsection are provided solely for the authority to continue and  
26 increase a contract for services funded in section 215(127), chapter  
27 297, Laws of 2022 (ESSB 5693) to provide information and support  
28 related to safe housing and support services for youth exiting  
29 inpatient mental health and/or substance use disorder facilities to  
30 stakeholders, inpatient treatment facilities, young people, and other  
31 community providers that serve unaccompanied youth and young adults.

32 (12) The following sums, or so much thereof as may be necessary,  
33 are each appropriated: \$2,500,000 from the state general fund for the  
34 fiscal year ending June 30, 2024; and \$2,500,000 from the state  
35 general fund for the fiscal year ending June 30, 2025. The amounts in  
36 this subsection are provided solely for the authority to award  
37 contracts through the grant program for law enforcement assisted  
38 diversion under RCW 71.24.589.

1        NEW SECTION.    **Sec. 34.**    The appropriations in this section are  
2 provided to the department of commerce and are subject to the  
3 following conditions and limitations:

4        The following sums, or so much thereof as may be necessary, are  
5 each appropriated: \$1,500,000 from the state general fund for the  
6 fiscal year ending June 30, 2024; and \$1,500,000 from the state  
7 general fund for the fiscal year ending June 30, 2025. The amounts in  
8 this section are provided solely for the office of homeless youth to  
9 administer a competitive grant process to award funding to licensed  
10 youth shelters, HOPE centers, and crisis residential centers to  
11 provide behavioral health support services, including substance use  
12 disorder services, for youth in crisis, and to increase funding for  
13 current grantees.

14       NEW SECTION.    **Sec. 35.**    The appropriations in this section are  
15 provided to the office of public defense and are subject to the  
16 following conditions and limitations:

17       The following sums, or so much thereof as may be necessary, are  
18 each appropriated: \$3,000,000 from the state general fund for the  
19 fiscal year ending June 30, 2024; and \$6,000,000 from the state  
20 general fund for the fiscal year ending June 30, 2025. The amounts in  
21 this section are provided solely for the purpose of section 39 of  
22 this act.

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

24       NEW SECTION.    **Sec. 36.**    A new section is added to chapter 71.24  
25 RCW to read as follows:

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

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

6 **Sec. 37.** RCW 18.64.600 and 2020 c 244 s 2 are each amended to  
7 read as follows:

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

13 (2) In order for a pharmacy to use remote dispensing sites, a  
14 pharmacy must register each separate remote dispensing site with the  
15 commission.

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

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

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

32 **Part XIII - Health Care Authority Comprehensive Data Reporting**  
33 **Requirements**

34 NEW SECTION. **Sec. 38.** A new section is added to chapter 71.24  
35 RCW to read as follows:

36 (1) The authority is responsible for providing regular  
37 assessments of the prevalence of substance use disorders and



1 interactions of persons with substance use disorder with service  
2 providers, nonprofit service providers, first responders, health care  
3 facilities, and law enforcement agencies. Beginning in 2026, the  
4 annual report required in subsection (3)(a) of this section shall  
5 include a comprehensive assessment of the information described in  
6 this subsection for the prior calendar year.

7 (2)(a) The authority shall identify the types and sources of data  
8 necessary to implement the appropriate means and methods of gathering  
9 data to provide the information required in subsection (1) of this  
10 section.

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

14 (i) Identify existing types and sources of data available to the  
15 authority to provide the information required in subsection (1) of  
16 this section and what data are necessary but currently unavailable to  
17 the authority;

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

21 (iii) Include recommendations, including any necessary  
22 legislation, regarding the development of reporting mechanisms  
23 between the authority and service providers, nonprofit service  
24 providers, health care facilities, law enforcement agencies, and  
25 other state agencies to gather the information required in subsection  
26 (1) of this section.

27 (3)(a) Beginning July 1, 2024, and each July 1st thereafter until  
28 July 1, 2028, the authority shall provide an implementation report to  
29 the governor and the legislature regarding recovery residences,  
30 recovery navigator programs, the health engagement pilot programs,  
31 and the law enforcement assisted diversion grants program. The report  
32 shall include:

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

36 (ii) The location of recovery residences, recovery navigator  
37 programs, health engagement hub pilot programs, and law enforcement  
38 assisted diversion programs;

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

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

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

9 (vi) The number of grants awarded to providers of employment,  
10 education, training, certification, and other supportive programs,  
11 including the amount awarded in each grant and the names of provider  
12 grant recipients, as provided for in section 27 of this act.

13 (b) The data obtained by the authority under this section shall  
14 be integrated with the Washington state institute for public policy  
15 report under section 24 of this act.

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

18 (a) The results and effectiveness of the authority's  
19 collaboration with the department of health and the department of  
20 social and health services to expand the Washington recovery helpline  
21 and recovery readiness asset tool to provide a dynamically updated  
22 statewide behavioral health treatment and recovery support services  
23 mapping tool, including the results and effectiveness with respect to  
24 overburdened and underrepresented communities, in accordance with  
25 section 28 of this act;

26 (b) The results and effectiveness of the authority's development  
27 and implementation of a data integration platform to support recovery  
28 navigator programs and to serve as a common database available for  
29 diversion efforts across the state, including the results and  
30 effectiveness with respect to overburdened and underrepresented  
31 communities, as provided in section 22 of this act;

32 (c) The effectiveness and outcomes of training developed and  
33 provided by the authority in consultation with the department of  
34 children, youth, and families, as provided in section 20 of this act;  
35 and

36 (d) The effectiveness and outcomes of training developed by the  
37 authority for housing providers, as provided in section 17(4) of this  
38 act.

1           **Part XIV - Public Defense Consultation and Representation for**  
2                                   **Indigent Adults**

3       NEW SECTION.   **Sec. 39.**   A new section is added to chapter 2.70  
4   RCW to read as follows:

5       (1) Subject to amounts appropriated for this specific purpose,  
6   the office of public defense may provide reimbursement of eligible  
7   expenses or contract directly with indigent defense providers for  
8   consultation and representation services for indigent adults facing  
9   pending charges or charged with violations of RCW 69.50.4011(1) (b)  
10   or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), or  
11   charged with offenses involving allegations of possession or public  
12   use of a controlled substance, counterfeit substance, or legend drug,  
13   in courts of limited jurisdiction in counties with a population of  
14   500,000 or less and cities with a population of 200,000 or less. The  
15   county or city may enter into an agreement with the office of public  
16   defense for reimbursement of eligible expenses or designate the  
17   office of public defense to contract directly with indigent defense  
18   providers for consultation and representation services in their  
19   jurisdiction.

20       (2) Nothing in this section creates an entitlement to counsel at  
21   state expense or a right by counties or cities for the provision of  
22   services by the office of public defense that would exceed the  
23   amounts appropriated for this specific purpose.

24                                   **Part XV - Miscellaneous Provisions**

25       NEW SECTION.   **Sec. 40.**   Section 6 of this act takes effect  
26   January 1, 2025.

27       **Sec. 41.**   2021 c 311 s 29 (uncodified) is amended to read as  
28   follows:

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

31       NEW SECTION.   **Sec. 42.**   Sections 1 through 5, 7 through 11, and  
32   41 of this act are necessary for the immediate preservation of the  
33   public peace, health, or safety, or support of the state government  
34   and its existing public institutions, and take effect July 1, 2023.

1        NEW SECTION.     **Sec. 43.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected."

**E2SSB 5536** - S AMD 470  
By Senator Robinson

**ADOPTED 05/16/2023**

5        On page 1, line 4 of the title, after "paraphernalia;" strike the  
6 remainder of the title and insert "amending RCW 69.50.4011,  
7 69.50.4013, 69.50.4014, 69.41.030, 69.50.509, 69.50.4121, 9.96.060,  
8 36.70A.200, 71.24.589, 71.24.590, 10.31.110, and 84.36.043; amending  
9 2021 c 311 s 29 (uncodified); adding a new section to chapter 43.43  
10 RCW; adding new sections to chapter 69.50 RCW; adding a new section  
11 to chapter 43.330 RCW; adding a new section to chapter 26.12 RCW;  
12 adding new sections to chapter 71.24 RCW; adding new sections to  
13 chapter 43.216 RCW; adding a new section to chapter 2.70 RCW;  
14 creating new sections; repealing RCW 10.31.115; prescribing  
15 penalties; making appropriations; providing effective dates; and  
16 declaring an emergency."

**EFFECT:** (1) Adds gross misdemeanor offenses prohibiting knowing use of a controlled or counterfeit substance in a public place and defines use to mean introduction of the substance into the human body by injection, inhalation, ingestion, or any other means.

(2) Fixes the penalty for the gross misdemeanor offenses of knowing possession or use of a controlled or counterfeit substance as up to 180 days in jail, a \$1,000 fine, or both, or 364 days in jail, a \$1,000 fine, or both if the defendant has two or more prior convictions for the same offense occurring after July 1, 2023.

(3) Clarifies no person may be charged with both possession and use of a controlled or counterfeit substance related to the same course of conduct.

(4) Removes requirement for the court to advise the defendant of the availability of pretrial diversion programs.

(5) Extends and makes permanent the misdemeanor classification for possession of a legend drug and adds misdemeanor offense for use of a legend drug in a public place.

(6) Provides that the prohibition on selling or permitting the sale of drug paraphernalia does not apply to distribution of certain supplies by outreach, shelter, and housing programs.

(7) Provides that the state occupies and preempts the field of drug paraphernalia regulation, however cities or counties may still enact laws or ordinances relating to the establishment or regulation of harm reduction services concerning drug paraphernalia.

(8) Clarifies the creation of the pretrial diversion under the bill will not prevent the parties to a drug possession or public use

case from seeking to resolve the case through any other alternative to prosecution, such as therapeutic courts, deferred prosecutions, or stipulated orders of continuances.

(9) Modifies provisions related to pretrial diversions (PTD) for applicable drug offenses, including by:

- Expanding the circumstances when PTD is available to include when a person is charged with knowing use of a controlled substance, counterfeit substance, or legend drug in a public place;

- Encouraging prosecuting attorneys to divert cases meeting certain criteria;

- Requiring the prosecutor consent to the defendant's participation in PTD prior to the court granting the motion;

- Clarifying that PTD must utilize either the Recovery Navigator Programs (RNP), Law Enforcement Assisted Diversion (LEAD) programs, or Arrest and Jail Alternative (AJA) programs available in the relevant jurisdiction;

- Requiring the RNP, LEAD, or AJA program to provide the court written confirmation of completion of the assessment and a statement indicating the defendant's enrollment or referral to any specific services and, if the assessment includes a referral to specific services, regular written status updates at least monthly;

- Exempting the written report and updates and their copies from disclosure under the public records act;

- Providing that if the applicable program's written report does not recommend any treatment or services, the defendant must instead complete up to 120 hours of community service;

- Specifying specific procedures for a hearing on a motion for termination from pretrial diversion, including certain factors that the court must consider;

- Requiring the RNP, LEAD, and AJA programs, beginning January 1, 2025, to input certain data and information about applicable cases in the health care authority's (HCA) data integration platform; and

- Providing that the defendant successfully completes pretrial diversion by having 12 months of substantial compliance with assessment and recommended treatment or services and progress toward recovery goals as reflected by a written status update from the applicable program or by successfully completing the recommended treatment or services, whichever occurs first, or, if no treatment or services were recommended by the applicable program, by completing the community service and submitting proof of completion to the court.

(10) Eliminates the provisions directing specific sentencing requirements for applicable drug offense convictions based on the defendant's willingness to comply with certain agreed conditions of probation, and instead encourages the court, when sentencing an individual for an applicable drug offense, to utilize any other resolution that suits the circumstance of the defendant's situation and advances stabilization, recovery, crime reduction, and justice.

(11) Requires the court to vacate a conviction for an applicable drug offense if the defendant either completes a substance use disorder program and files proof with the court or enrolls with a RNP, LEAD, or AJA program and substantially complies with recommended treatment or services for six months.

(12) Provides that harm reduction programs include programs that offer low threshold options for accessing SUD treatment and other services, rather than other health care services.

(13) Requires DOH to provide public notice to appropriate media outlets in a community when an applicant proposes to site an opiate treatment program in the community, instead of requiring DOH to hold a public hearing.

(14) Requires the Department of Commerce, subject to the availability of funds, to fund the construction costs of SUD treatment and services programs and recovery housing, rather than SUD treatment programs.

(15) Removes requirement for courts to provide counsel for certain parents or guardians in a parenting plan or child custody proceeding.

(16) Eliminates requirement for HCA to expand a revolving fund program to make loans or grants available for recovery residence operators to use for necessary capital expenses.

(17) Removes requirement for HCA to establish a voucher program for individuals have returned to use and need a place to stay while negotiating a return to stable housing.

(18) Expands requirement for HCA to develop a training for housing providers to help them provide appropriate service to include Black, indigenous, and or people of color communities and immigrant communities in addition to LGBTQIA+ communities.

(19) Specifies HCA that the training for parents of youth with substance use disorders must be for parents of youth aged 13 and up, build on and be consistent and compatible with existing training developed by HCA for families impacted by SUDs, and include suicide prevention.

(20) Requires the DCYF to provide opioid overdose reversal medication and training to DCYF staff whose job duties require in person service or case management for child welfare or juvenile rehabilitation clients, rather than to persons who may contact individuals experiencing overdose.

(21) Extends the date for HCA to develop a data integration platform to serve as a common database for diversion efforts by one year from June 30, 2024, to June 30, 2025, adds specifications such as the capacity for practitioners to input data relating to RNPs, LEAD programs, AJA programs, and similar diversion efforts and tracking diversion participants by race, ethnicity, gender, gender expression or identity, disability status, and age, requires HCA to engage and consult with the LEAD National Support Bureau, and exempts data submitted to the data integration platform from public disclosure requirements under the Public Disclosure Act.

(22) Expands the long-term effectiveness study of RNPs by the Washington State Institute for Public Policy (WSIPP) to include LEAD programs and to include a descriptive assessment of the current status of RNPs and LEAD programs to be submitted by June 30, 2024.

(23) Modifies RNPs by defining the goal of RNPs to provide a credible alternative to further legal system involvement for criminal activity that stems from unmet behavioral health needs or poverty, requiring them to be organized on a scale that permits meaningful engagement with local law enforcement and municipal agencies through policy coordinating groups, expanding LEAD Bureau technical assistance to HCA, contracted providers, and independent stakeholders and partners such as prosecutors and law enforcement, and requiring HCA to revise its RNP program standards by June 30, 2024, to achieve fidelity with the core principles of the LEAD program.

(24) Establishes protection from civil liability for the state and other entities based on administration of an RNP except based on proof of bad faith or gross negligence.

(25) Reduces the scope of the health engagement hubs to a pilot program exclusively for adults to be implemented by HCA by August 1, 2024, with at least two sites subject to appropriation, one located in an urban area and one in a rural area, with the development of payment structures by June 30, 2024, and a report to the Legislature by August 1, 2026.

(26) Expands the grant program to provide persons recovering from SUDs with employment opportunities to include education opportunities.

(27) Replaces the specific appropriations provided in the underlying bill with the following (amounts from state general fund unless otherwise noted):

- \$47,000 from the state general fund, and \$13,000 from the health professions account, for DOH to adopt rules related to mobile medication units and conduct inspections for such units;

- \$734,000 for the Department of Revenue to administer the recovery residence tax exemption;

- \$23,000 from the performance audits of government account for the Joint Legislative Audit and Review Committee to conduct a tax preference review of the property tax exemption for recovery residences;

- \$1.263 million for the Washington State Patrol to analyze evidence submitted for suspected drug possession offenses;

- \$3.6 million from the Opioid Abatement Settlement Account and \$1.4 million for HCA to maintain a memorandum of understanding with the Criminal Justice Training Commission to provide ongoing funding for community grants;

- \$3.783 million from the opioid abatement settlement, and \$3.810 million from the general fund—federal, for HCA's administration of this act;

- \$2 million for HCA to award grants to crisis services providers to establish and expand 23-hour crisis relief center capacity;

- \$4 million from the Opioid Abatement Settlement Account for HCA to establish a health engagement hub pilot program in both urban and rural locations;

- \$3.768 million from the Opioid Abatement Settlement Account for HCA to increase the number of mobile methadone units operated by existing opioid treatment providers, increase the number of opioid treatment provider fixed medication units operated by existing opioid treatment providers, and expand opioid treatment programs with a prioritization for rural areas;

- \$5.242 million from the Opioid Abatement Settlement Account for HCA to provide grants to providers of employment and educational services for individuals with SUDs;

- \$500,000 from the Opioid Abatement Settlement Account, and \$1.5 million for HCA to provide grants to support SUD family navigator programs;

- \$7.5 million for HCA to provide short-term housing vouchers for individuals with substance use disorder, with a focus on resources for people in the state's five most populous counties;

- \$4 million for HCA to provide grants for the operational costs of certain recovery residences, with a focus on recovery residences which serve individuals in the state's five most populous counties;

- \$2 million for HCA to support the provision of behavioral health co-responder services on nonlaw enforcement emergency medical response teams;

- \$500,000 for HCA to continue and increase contracting services to provide information and support on safe housing and support services for youth;

- \$5 million for HCA to award contracts through the LEAD grant program;

- \$3 million for the Department of Commerce to administer a competitive grant process through the Office of Homeless Youth to award funding to certain entities that provide behavioral health support services for youth in crisis; and

- \$9 million for the Office of Public Defense to provide reimbursement of eligible expenses or contract directly with indigent defense providers for consultation and presentations services for indigent adults charged with applicable drug offenses in courts of limited jurisdiction, in counties with a population of 500,000 or less and cities with a population of 200,000 or less.

(28) Allows remote dispensing sites to dispense medications used for the treatment of the symptoms of opioid use disorder using technology owned by either the pharmacy or the remote dispensing site and removes the express requirement that such medications be approved by the United States food and drug administration.

(29) Establishes requirements for HCA to provide an annual report from July 1, 2024, through July 1, 2028, with additional reports on December 1, 2023, and December 1, 2024, including an assessment of the prevalence of SUDs and the interactions of persons with SUD with service providers, first responders, and health facilities; data relating to recovery residences, RNPs, LEAD grants, and health engagement hubs; and beginning in 2027 the results and effectiveness of specified initiatives included in this act.

(30) Allows the Office of Public Defense subject to appropriation to reimburse courts of limited jurisdiction in counties with a population of 500,000 or less or in cities with a population of 200,000 or less for public defense costs related to possession or public use of a controlled substance, counterfeit substance, or legend drug.

(31) Adds a severability clause.

(32) Eliminates the intent section.

--- END ---