

Advocacy

Published on May 03, 2023

Governor announces May 16 special session to pass drug possession bill

Contact: [Candice Bock](#), [Lindsey Hueer](#), [Katherine Walton](#)

The Governor announced this week that the Legislature will meet for a special session starting on May 16 with the intent to pass a new drug possession law before the current law expires on July 1.

This week the AWC Board Legislative Steering Committee met to formalize a position. The committee voted to:

- Support a *Blake* response approach that includes making possession of an illegal drug a gross misdemeanor while focusing on diversion options that encourage individuals to participate in treatment programs in lieu of criminal penalties.
- Support legislation that is clear and implementable for cities and preserves local prosecutorial and judicial discretion and avoids being overly ridged and prescriptive. The language of any new law must be workable for local prosecutors and law enforcement. The provisions regarding diversion programs need to allow for local discretion and factors around availability and capacity of diversion options.

How did we get here?

In 2021, the Supreme Court determined that the statute that penalized possession of a controlled substance was unconstitutional because it lacked the requirement that a person “knowingly” possessed the substance. During the 2021 session, the Legislature passed [SB 5476](#) to provide a temporary solution to the ruling; that bill expires July 1, 2023.

The Senate passed their proposed fix, [SB 5536](#), at the beginning of March. The bill would have made possession of counterfeit and controlled substances a gross misdemeanor but incentivized treatment throughout the process ([read more about the Senate version of the bill](#)). Though it needed some minor

Related content

Meet your lobbyists

Meet the AWC



The House significantly changed the bill including making possession a simple misdemeanor, adding an additional charge of “use” of drugs in a public place without adequately defining “use,” and establishing a complex web of diversion and treatment requirements that would have been difficult, if not impossible, to actually implement ([read more](#) about the House changes). The Senate refused to accept the changes made by the House, sending the bill into a conference committee. The conference committee met and submitted their report on the second-to-last day of session.

The conference committee version was largely similar to the House-enacted version, though it made knowing possession, and knowing possession and use, of a controlled substance or counterfeit substance a gross misdemeanor. Overall, the version of the bill that the conference committee developed was consistent with AWC’s policy position of a criminal penalty for drug possession with a focus on diverting people into treatment. Where our concerns arose was in the technical construct of the bill and ability to implement the bill in a functional way. We had heard concerns from city attorneys as well as county prosecutors that the way the bill was drafted could make it too difficult to successfully implement, effectively making it impossible to bring a criminal case and use the diversion process to get people to accept treatment.

While AWC had concerns about the conference committee report, there are no opportunities to amend a conference committee report; each chamber must vote the bill up or down as it stands. AWC neither supported nor opposed the bill, though some cities publicly opposed it. Ultimately, the conference committee report did not have enough support within the House and we understand that it potentially would not have passed the Senate, either, even if it had been passed by the House.

In the end, the bill faced opposition from some Democrats who didn’t support criminalization of drug possession (or at least not making it a gross misdemeanor) and from Republicans who felt the bill was unworkable. The result was a bill that couldn’t pass the House and not enough time left Sunday night to come back and try again.

The current law expires July 1 and without state action, cities will need to decide whether or not to adopt local ordinances creating a criminal penalty for drug possession. AWC has expressed to legislative leadership that time is of the essence as it can take several weeks of work and public notice for a City Council to enact a local ordinance.

On the final day of the legislative session, the House voted against the

Legislators back to Olympia to pass a law on drug possession before the current law expires July 1. Some cities have already begun passing their own drug possession laws in anticipation of the deadline. AWC has continued to meet with Legislators to advocate for a Blake response approach that includes making possession of an illegal drug a gross misdemeanor while focusing on diversion options that encourage individuals to participate in treatment programs in lieu of criminal penalties.

Advocacy Public safety & criminal justice

Recent articles

[Back to Advocacy news by category](#)