

SB 5476 - S AMD 832
By Senator Hasegawa

NOT ADOPTED 04/15/2021

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

3 "PART I
4 **POSSESSION AND USE OF CONTROLLED SUBSTANCES, COUNTERFEIT SUBSTANCES,**
5 **AND LEGEND DRUGS**

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

8 (1) Except as authorized by this chapter, it is unlawful for any
9 person to create, deliver, or knowingly possess a counterfeit
10 substance.

11 (2) ~~((Any))~~ (a) A person 21 years of age or older who violates
12 this section by knowingly possessing a counterfeit substance is
13 guilty of a class 2 civil infraction under chapter 7.80 RCW. To the
14 extent resources are available, the court shall refer the individual
15 for diversion or treatment.

16 (b) A person under the age of 21 who violates this section by
17 knowingly possessing a counterfeit substance is guilty of a class 3
18 civil infraction under chapter 7.80 RCW and is subject to the maximum
19 fine as set out in that chapter, participation in up to four hours of
20 community restitution, or both. The court may also require completion
21 of a chemical dependency treatment evaluation.

22 (3) Except as provided in subsection (2) of this section, any
23 person who violates this section with respect to:

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

29 (b) A counterfeit substance which is methamphetamine, is guilty
30 of a class B felony and upon conviction may be imprisoned for not

1 more than ten years, fined not more than twenty-five thousand
2 dollars, or both;

3 (c) Any other counterfeit substance classified in Schedule I, II,
4 or III, is guilty of a class C felony punishable according to chapter
5 9A.20 RCW;

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

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

11 **Sec. 2.** RCW 69.50.4013 and 2017 c 317 s 15 are each amended to
12 read as follows:

13 (1) (~~It is unlawful for any person to possess a controlled~~
14 ~~substance unless~~) Unless the substance was obtained directly from,
15 or pursuant to, a valid prescription or order of a practitioner while
16 acting in the course of his or her professional practice, or except
17 as otherwise authorized by this chapter, it is unlawful for any
18 person to knowingly possess a controlled substance.

19 (2) Except as provided in RCW 69.50.4014, any person who violates
20 this section (~~is guilty of a class C felony punishable under chapter~~
21 ~~9A.20 RCW~~):

22 (a) Who is 21 years of age or older is guilty of a class 2 civil
23 infraction under chapter 7.80 RCW. To the extent resources are
24 available, the court shall refer the individual for diversion or
25 treatment; or

26 (b) Who is under the age of 21 is guilty of a class 3 civil
27 infraction under chapter 7.80 RCW and is subject to the maximum fine
28 as set out in that chapter, participation in up to four hours of
29 community restitution, or both. The court may also require completion
30 of a chemical dependency treatment evaluation.

31 (3) (a) The possession, by a person twenty-one years of age or
32 older, of useable marijuana, marijuana concentrates, or marijuana-
33 infused products in amounts that do not exceed those set forth in RCW
34 69.50.360(3) is not a violation of this section, this chapter, or any
35 other provision of Washington state law.

36 (b) The possession of marijuana, useable marijuana, marijuana
37 concentrates, and marijuana-infused products being physically
38 transported or delivered within the state, in amounts not exceeding
39 those that may be established under RCW 69.50.385(3), by a licensed

1 employee of a common carrier when performing the duties authorized in
2 accordance with RCW 69.50.382 and 69.50.385, is not a violation of
3 this section, this chapter, or any other provision of Washington
4 state law.

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

12 (i) One-half ounce of useable marijuana;

13 (ii) Eight ounces of marijuana-infused product in solid form;

14 (iii) Thirty-six ounces of marijuana-infused product in liquid
15 form; or

16 (iv) Three and one-half grams of marijuana concentrates.

17 (b) The act of delivering marijuana or a marijuana product as
18 authorized under this subsection (4) must meet one of the following
19 requirements:

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

22 (ii) The marijuana or marijuana product must be in the original
23 packaging as purchased from the marijuana retailer.

24 (5) No person under twenty-one years of age may possess,
25 manufacture, sell, or distribute marijuana, marijuana-infused
26 products, or marijuana concentrates, regardless of THC concentration.
27 This does not include qualifying patients with a valid authorization.

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

33 **Sec. 3.** RCW 69.50.412 and 2019 c 64 s 22 are each amended to
34 read as follows:

35 (1) It is unlawful for any person to use drug paraphernalia to
36 plant, propagate, cultivate, grow, harvest, manufacture, compound,
37 convert, produce, process, or prepare(~~(, test, analyze, pack, repack,~~
38 ~~store, contain, conceal, inject, ingest, inhale, or otherwise~~
39 ~~introduce into the human body)) a controlled substance other than~~

1 marijuana. Any person who violates this subsection is guilty of a
2 misdemeanor.

3 (2) It is unlawful for any person to deliver, possess with intent
4 to deliver, or manufacture with intent to deliver drug paraphernalia,
5 knowing, or under circumstances where one reasonably should know,
6 that it will be used to plant, propagate, cultivate, grow, harvest,
7 manufacture, compound, convert, produce, process, prepare, test,
8 analyze, pack, repack, store, contain, conceal, inject, ingest,
9 inhale, or otherwise introduce into the human body a controlled
10 substance other than marijuana. Any person who violates this
11 subsection is guilty of a misdemeanor.

12 (3) It is unlawful for any person to use drug paraphernalia to
13 test, analyze, pack, repack, store, contain, conceal, inject, ingest,
14 inhale, or otherwise introduce into the human body a controlled
15 substance other than marijuana.

16 (a) Any person 21 years of age or older who violates this
17 subsection is guilty of a class 2 civil infraction under chapter 7.80
18 RCW.

19 (b) Any person under the age of 21 who violates this subsection
20 is guilty of a class 3 civil infraction under chapter 7.80 RCW.

21 (4) Any person eighteen years of age or over who violates
22 subsection (2) of this section by delivering drug paraphernalia to a
23 person under eighteen years of age who is at least three years his or
24 her junior is guilty of a gross misdemeanor.

25 ((+4)) (5) It is unlawful for any person to place in any
26 newspaper, magazine, handbill, or other publication any
27 advertisement, knowing, or under circumstances where one reasonably
28 should know, that the purpose of the advertisement, in whole or in
29 part, is to promote the sale of objects designed or intended for use
30 as drug paraphernalia. Any person who violates this subsection is
31 guilty of a misdemeanor.

32 ((+5)) (6) It is lawful for any person over the age of eighteen
33 to possess sterile hypodermic syringes and needles for the purpose of
34 reducing blood-borne diseases.

35 **Sec. 4.** RCW 69.50.445 and 2015 2nd sp.s. c 4 s 401 are each
36 amended to read as follows:

37 (1) It is unlawful to open a package containing marijuana,
38 useable marijuana, marijuana-infused products, or marijuana
39 concentrates, or consume marijuana, useable marijuana, marijuana-

1 infused products, or marijuana concentrates, in view of the general
2 public or in a public place.

3 (2) It is unlawful to open a package containing an unauthorized
4 controlled substance or consume an unauthorized controlled substance
5 in view of the general public or in a public place.

6 (3) It is unlawful to throw, drop, deposit, discard, or otherwise
7 dispose of drug paraphernalia in a public place.

8 (4) For the purposes of this section, "public place" has the same
9 meaning as defined in RCW 66.04.010, but the exclusions in RCW
10 66.04.011 do not apply.

11 ~~((3))~~ (5)(a) A person who violates subsection (1) of this
12 section is guilty of a class 3 civil infraction under chapter 7.80
13 RCW.

14 (b) A person who violates subsection (2) of this section is
15 guilty of a class 2 civil infraction under chapter 7.80 RCW.

16 (c) A person who violates subsection (3) of this section is
17 guilty of a class 1 civil infraction under chapter 7.80 RCW.

18 **Sec. 5.** RCW 69.41.030 and 2019 c 55 s 9 are each amended to read
19 as follows:

20 (1) ~~((1))~~ Except as provided in subsection (2) of this section,
21 it shall be unlawful for any person to sell, deliver, or knowingly
22 possess any legend drug (~~(except)~~).

23 (2) The sale, delivery, or possession of a legend drug does not
24 constitute a violation of this section upon the order or prescription
25 of a physician under chapter 18.71 RCW, an osteopathic physician and
26 surgeon under chapter 18.57 RCW, an optometrist licensed under
27 chapter 18.53 RCW who is certified by the optometry board under RCW
28 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician
29 and surgeon under chapter 18.22 RCW, a veterinarian under chapter
30 18.92 RCW, a commissioned medical or dental officer in the United
31 States armed forces or public health service in the discharge of his
32 or her official duties, a duly licensed physician or dentist employed
33 by the veterans administration in the discharge of his or her
34 official duties, a registered nurse or advanced registered nurse
35 practitioner under chapter 18.79 RCW when authorized by the nursing
36 care quality assurance commission, a pharmacist licensed under
37 chapter 18.64 RCW to the extent permitted by drug therapy guidelines
38 or protocols established under RCW 18.64.011 and authorized by the
39 commission and approved by a practitioner authorized to prescribe

1 drugs, an osteopathic physician assistant under chapter 18.57A RCW
2 when authorized by the board of osteopathic medicine and surgery, a
3 physician assistant under chapter 18.71A RCW when authorized by the
4 Washington medical commission, or any of the following professionals
5 in any province of Canada that shares a common border with the state
6 of Washington or in any state of the United States: A physician
7 licensed to practice medicine and surgery or a physician licensed to
8 practice osteopathic medicine and surgery, a dentist licensed to
9 practice dentistry, a podiatric physician and surgeon licensed to
10 practice podiatric medicine and surgery, a licensed advanced
11 registered nurse practitioner, a licensed physician assistant, a
12 licensed osteopathic physician assistant, or a veterinarian licensed
13 to practice veterinary medicine: PROVIDED, HOWEVER, That the above
14 provisions shall not apply to sale, delivery, or possession by drug
15 wholesalers or drug manufacturers, or their agents or employees, or
16 to any practitioner acting within the scope of his or her license, or
17 to a common or contract carrier or warehouse operator, or any
18 employee thereof, whose possession of any legend drug is in the usual
19 course of business or employment: PROVIDED FURTHER, That nothing in
20 this chapter or chapter 18.64 RCW shall prevent a family planning
21 clinic that is under contract with the health care authority from
22 selling, delivering, possessing, and dispensing commercially
23 prepackaged oral contraceptives prescribed by authorized, licensed
24 health care practitioners: PROVIDED FURTHER, That nothing in this
25 chapter prohibits possession or delivery of legend drugs by an
26 authorized collector or other person participating in the operation
27 of a drug take-back program authorized in chapter 69.48 RCW.

28 ~~((+2))~~ (3)(a) A violation of this section involving the sale,
29 delivery, or possession with intent to sell or deliver is a class B
30 felony punishable according to chapter 9A.20 RCW.

31 (b) (i) A violation of this section involving possession ~~((is a~~
32 ~~misdemeanor))~~ by a person 21 years of age or older is a class 2 civil
33 infraction under chapter 7.80 RCW. To the extent resources are
34 available, the court shall refer the individual for diversion or
35 treatment.

36 (ii) A violation of this section involving possession by a person
37 under the age of 21 is guilty of a class 3 civil infraction under
38 chapter 7.80 RCW and is subject to a fine as set out in chapter 7.80
39 RCW, participation in up to four hours of community restitution, or

1 both. The court may also require completion of a chemical dependency
2 treatment evaluation.

3 **Sec. 6.** RCW 69.41.030 and 2020 c 80 s 41 are each amended to
4 read as follows:

5 (1) (~~It~~) Except as provided in subsection (2) of this section,
6 it shall be unlawful for any person to sell, deliver, or knowingly
7 possess any legend drug (~~except~~).

8 (2) The sale, delivery, or possession of a legend drug does not
9 constitute a violation of this section upon the order or prescription
10 of a physician under chapter 18.71 RCW, an osteopathic physician and
11 surgeon under chapter 18.57 RCW, an optometrist licensed under
12 chapter 18.53 RCW who is certified by the optometry board under RCW
13 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician
14 and surgeon under chapter 18.22 RCW, a veterinarian under chapter
15 18.92 RCW, a commissioned medical or dental officer in the United
16 States armed forces or public health service in the discharge of his
17 or her official duties, a duly licensed physician or dentist employed
18 by the veterans administration in the discharge of his or her
19 official duties, a registered nurse or advanced registered nurse
20 practitioner under chapter 18.79 RCW when authorized by the nursing
21 care quality assurance commission, a pharmacist licensed under
22 chapter 18.64 RCW to the extent permitted by drug therapy guidelines
23 or protocols established under RCW 18.64.011 and authorized by the
24 commission and approved by a practitioner authorized to prescribe
25 drugs, a physician assistant under chapter 18.71A RCW when authorized
26 by the Washington medical commission, or any of the following
27 professionals in any province of Canada that shares a common border
28 with the state of Washington or in any state of the United States: A
29 physician licensed to practice medicine and surgery or a physician
30 licensed to practice osteopathic medicine and surgery, a dentist
31 licensed to practice dentistry, a podiatric physician and surgeon
32 licensed to practice podiatric medicine and surgery, a licensed
33 advanced registered nurse practitioner, a licensed physician
34 assistant, or a veterinarian licensed to practice veterinary
35 medicine: PROVIDED, HOWEVER, That the above provisions shall not
36 apply to sale, delivery, or possession by drug wholesalers or drug
37 manufacturers, or their agents or employees, or to any practitioner
38 acting within the scope of his or her license, or to a common or
39 contract carrier or warehouse operator, or any employee thereof,

1 whose possession of any legend drug is in the usual course of
2 business or employment: PROVIDED FURTHER, That nothing in this
3 chapter or chapter 18.64 RCW shall prevent a family planning clinic
4 that is under contract with the health care authority from selling,
5 delivering, possessing, and dispensing commercially prepackaged oral
6 contraceptives prescribed by authorized, licensed health care
7 practitioners: PROVIDED FURTHER, That nothing in this chapter
8 prohibits possession or delivery of legend drugs by an authorized
9 collector or other person participating in the operation of a drug
10 take-back program authorized in chapter 69.48 RCW.

11 ~~((2))~~ (3)(a) A violation of this section involving the sale,
12 delivery, or possession with intent to sell or deliver is a class B
13 felony punishable according to chapter 9A.20 RCW.

14 (b) (i) A violation of this section involving possession ~~((is a~~
15 ~~misdemeanor))~~ by a person 21 years of age or older is a class 2 civil
16 infraction under chapter 7.80 RCW. To the extent resources are
17 available, the court shall refer the individual for diversion or
18 treatment.

19 (ii) A violation of this section involving possession by a person
20 under the age of 21 is guilty of a class 3 civil infraction under
21 chapter 7.80 RCW and is subject to a fine as set out in chapter 7.80
22 RCW, participation in up to four hours of community restitution, or
23 both. The court may also require completion of a chemical dependency
24 treatment evaluation.

25 **PART II**

26 **RESENTENCING AND RELEASE OF PERSONS IMPACTED BY STATE V. BLAKE**

27 **Sec. 7.** RCW 2.24.010 and 2013 c 27 s 3 are each amended to read
28 as follows:

29 (1) There may be appointed in each county or judicial district,
30 by the judges of the superior court having jurisdiction therein, one
31 or more court commissioners for said county or judicial district.
32 Each such commissioner shall be a citizen of the United States and
33 shall hold the office during the pleasure of the judges making the
34 appointment.

35 (2) (a) There may be appointed ~~((in counties with a population of~~
36 ~~more than four hundred thousand,))~~ by the presiding judge of the
37 superior court having jurisdiction ~~((therein))~~, one or more attorneys
38 to act as criminal commissioners to assist the superior court in

1 disposing of adult criminal cases. Such criminal commissioners shall
2 have power, authority, and jurisdiction, concurrent with the superior
3 court and the judges thereof, in adult criminal cases, to preside
4 over arraignments, preliminary appearances, initial extradition
5 hearings, and noncompliance proceedings pursuant to RCW 9.94A.6333 or
6 9.94B.040; accept pleas if authorized by local court rules; appoint
7 counsel; make determinations of probable cause; set, amend, and
8 review conditions of pretrial release; set bail; set trial and
9 hearing dates; authorize continuances; accept waivers of the right to
10 speedy trial; and authorize and issue search warrants and orders to
11 intercept, monitor, or record wired or wireless telecommunications or
12 for the installation of electronic taps or other devices to include,
13 but not be limited to, vehicle global positioning system or other
14 mobile tracking devices with all the powers conferred upon the judge
15 of the superior court in such matters. Criminal commissioners also
16 shall have the authority to conduct resentencing hearings and to
17 vacate convictions pursuant to *State v. Blake*, No. 96873-0 (Feb. 25,
18 2021).

19 (b) The county legislative authority must approve the creation of
20 criminal commissioner positions.

21 **Sec. 8.** RCW 2.24.040 and 2009 c 28 s 1 are each amended to read
22 as follows:

23 Such court commissioner shall have power, authority, and
24 jurisdiction, concurrent with the superior court and the judge
25 thereof, in the following particulars:

26 (1) To hear and determine all matters in probate, to make and
27 issue all proper orders therein, and to issue citations in all cases
28 where same are authorized by the probate statutes of this state.

29 (2) To grant and enter defaults and enter judgment thereon.

30 (3) To issue temporary restraining orders and temporary
31 injunctions, and to fix and approve bonds thereon.

32 (4) To act as referee in all matters and actions referred to him
33 or her by the superior court as such, with all the powers now
34 conferred upon referees by law.

35 (5) To hear and determine all proceedings supplemental to
36 execution, with all the powers conferred upon the judge of the
37 superior court in such matters.

38 (6) To hear and determine all petitions for the adoption of
39 children and for the dissolution of incorporations.

1 (7) To hear and determine all applications for the commitment of
2 any person to the hospital for the insane, with all the powers of the
3 superior court in such matters: PROVIDED, That in cases where a jury
4 is demanded, same shall be referred to the superior court for trial.

5 (8) To hear and determine all complaints for the commitments of
6 minors with all powers conferred upon the superior court in such
7 matters.

8 (9) To hear and determine ex parte and uncontested civil matters
9 of any nature.

10 (10) To grant adjournments, administer oaths, preserve order,
11 compel attendance of witnesses, and to punish for contempts in the
12 refusal to obey or the neglect of the court commissioner's lawful
13 orders made in any matter before the court commissioner as fully as
14 the judge of the superior court.

15 (11) To take acknowledgments and proofs of deeds, mortgages and
16 all other instruments requiring acknowledgment under the laws of this
17 state, and to take affidavits and depositions in all cases.

18 (12) To provide an official seal, upon which shall be engraved
19 the words "Court Commissioner," and the name of the county for which
20 he or she may be appointed, and to authenticate his official acts
21 therewith in all cases where same is necessary.

22 (13) To charge and collect, for his or her own use, the same fees
23 for the official performance of official acts mentioned in
24 subsections (4) and (11) of this section as are provided by law for
25 referees and notaries public.

26 (14) To hear and determine small claims appeals as provided in
27 chapter 12.36 RCW.

28 (15) In adult criminal cases, to preside over arraignments,
29 preliminary appearances, initial extradition hearings, and
30 noncompliance proceedings pursuant to RCW 9.94A.6333 or 9.94B.040;
31 accept pleas if authorized by local court rules; appoint counsel;
32 make determinations of probable cause; set, amend, and review
33 conditions of pretrial release; set bail; set trial and hearing
34 dates; authorize continuances; ~~(and)~~ accept waivers of the right to
35 speedy trial; and conduct resentencing hearings and to vacate
36 convictions pursuant to State v. Blake, No. 96873-0 (Feb. 25, 2021).

37 **Sec. 9.** RCW 9.94A.728 and 2018 c 166 s 2 are each amended to
38 read as follows:

1 (1) No person serving a sentence imposed pursuant to this chapter
2 and committed to the custody of the department shall leave the
3 confines of the correctional facility or be released prior to the
4 expiration of the sentence except as follows:

5 (a) An offender may earn early release time as authorized by RCW
6 9.94A.729;

7 (b) An offender may leave a correctional facility pursuant to an
8 authorized furlough or leave of absence. In addition, offenders may
9 leave a correctional facility when in the custody of a corrections
10 officer or officers;

11 (c)(i) The secretary may authorize an extraordinary medical
12 placement for an offender when all of the following conditions exist:

13 (A) The offender has a medical condition that is serious and is
14 expected to require costly care or treatment;

15 (B) The offender poses a low risk to the community because he or
16 she is currently physically incapacitated due to age or the medical
17 condition or is expected to be so at the time of release; and

18 (C) It is expected that granting the extraordinary medical
19 placement will result in a cost savings to the state.

20 (ii) An offender sentenced to death or to life imprisonment
21 without the possibility of release or parole is not eligible for an
22 extraordinary medical placement.

23 (iii) The secretary shall require electronic monitoring for all
24 offenders in extraordinary medical placement unless the electronic
25 monitoring equipment interferes with the function of the offender's
26 medical equipment or results in the loss of funding for the
27 offender's medical care, in which case, an alternative type of
28 monitoring shall be utilized. The secretary shall specify who shall
29 provide the monitoring services and the terms under which the
30 monitoring shall be performed.

31 (iv) The secretary may revoke an extraordinary medical placement
32 under this subsection (1)(c) at any time.

33 (v) Persistent offenders are not eligible for extraordinary
34 medical placement;

35 (d) The governor, upon recommendation from the clemency and
36 pardons board, may grant an extraordinary release for reasons of
37 serious health problems, senility, advanced age, extraordinary
38 meritorious acts, or other extraordinary circumstances;

39 (e) No more than the final twelve months of the offender's term
40 of confinement may be served in partial confinement for aiding the

1 offender with: Finding work as part of the work release program under
2 chapter 72.65 RCW; or reestablishing himself or herself in the
3 community as part of the parenting program in RCW 9.94A.6551. This is
4 in addition to that period of earned early release time that may be
5 exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

6 (f) No more than the final six months of the offender's term of
7 confinement may be served in partial confinement as home detention as
8 part of the graduated reentry program developed by the department
9 under RCW 9.94A.733;

10 (g) The governor may pardon any offender;

11 (h) The department may release an offender from confinement any
12 time within ten days before a release date calculated under this
13 section;

14 (i) An offender may leave a correctional facility prior to
15 completion of his or her sentence if the sentence has been reduced as
16 provided in RCW 9.94A.870;

17 (j) Notwithstanding any other provisions of this section, an
18 offender sentenced for a felony crime listed in RCW 9.94A.540 as
19 subject to a mandatory minimum sentence of total confinement shall
20 not be released from total confinement before the completion of the
21 listed mandatory minimum sentence for that felony crime of conviction
22 unless allowed under RCW 9.94A.540; and

23 (k) Any person convicted of one or more crimes committed prior to
24 the person's eighteenth birthday may be released from confinement
25 pursuant to RCW 9.94A.730.

26 (2) Notwithstanding any other provision of this section, an
27 offender entitled to vacation of a conviction or the recalculation of
28 his or her offender score pursuant to *State v. Blake*, No. 96873-0
29 (Feb. 25, 2021), may be released from confinement pursuant to a court
30 order if the offender has already served a period of confinement that
31 exceeds his or her new standard range. This provision does not create
32 an independent right to release from confinement prior to
33 resentencing.

34 (3) Offenders residing in a juvenile correctional facility
35 placement pursuant to RCW 72.01.410(1)(a) are not subject to the
36 limitations in this section.

37 NEW SECTION. Sec. 10. A new section is added to chapter 69.50
38 RCW to read as follows:

1 The *State v. Blake* reimbursement account is created in the state
2 treasury. Moneys in the account may be spent only after
3 appropriation. Expenditures from the account may be used only for
4 state and local government costs resulting from the supreme court's
5 decision in *State v. Blake* and to reimburse individuals for legal
6 financial obligations paid in connection with sentences that have
7 been invalidated as a result of the decision in *State v. Blake*.

8 **PART III**

9 **DECRIMINALIZING SUBSTANCE USE DISORDER WORK GROUP**

10 NEW SECTION. **Sec. 11.** (1) The department of health and the
11 Washington state health care authority shall convene a work group to
12 address appropriate responses to the possession of controlled
13 substances in the wake of *State v. Blake*. The work group is directed
14 to develop recommendations for reforming state laws, rules, and
15 practices so that they align with the goal of treating substance use
16 disorder as a disease, rather than a criminal behavior.

17 (2) The work group shall study and use reliable evidence and
18 information to issue recommendations regarding laws, rules, and
19 policies identified by the work group that need reform, including
20 changes to criminal law and penalties, the social services law, and
21 any other statutes that will help the state achieve the objective of
22 addressing the use of drugs through a public health approach. In
23 developing recommendations, the work group must consider:

24 (a) The quantity of drugs used by individuals with a substance
25 use disorder;

26 (b) Policies and practices that will prioritize access to
27 treatment and recovery for individuals wishing to address their use
28 of controlled substances;

29 (c) Strategies to divert individuals who use drugs from the
30 criminal justice system, including charges for selling drugs;

31 (d) How to reduce civil collateral consequences of drug
32 convictions including effects on employment, housing, education, and
33 licensing; and

34 (e) How to address racial disparities in enforcement.

35 (3) The work group shall include membership as follows:

36 (a) Two members each from the health care authority and the
37 department of health;

- 1 (b) Two members from community-based organizations that
2 specialize in substance abuse disorder services;
- 3 (c) One member representing a criminal defender association;
- 4 (d) One superior court judge;
- 5 (e) One drug court judge;
- 6 (f) One member from the administrative office of the courts;
- 7 (g) One member representing Washington cities;
- 8 (h) One member representing Washington counties;
- 9 (i) One member from the sentencing guidelines commission;
- 10 (j) One member representing law enforcement;
- 11 (k) One member of a federally recognized tribe;
- 12 (l) One member from an organization representing minority
13 interests;
- 14 (m) One member who has successfully overcome substance abuse
15 disorder and has experience with the criminal justice system;
- 16 (n) One member from the governor's office; and
- 17 (o) One member from the office of the attorney general.
- 18 (4) The work group shall additionally consult with professional
19 associations and academic institutions with background and expertise
20 in treating substance abuse disorders.
- 21 (5) The work group shall submit its recommendations to the
22 appropriate committees of the legislature by November 1, 2022.

23
24

PART IV
MISCELLANEOUS PROVISIONS

25 NEW SECTION. **Sec. 12.** Section 5 of this act expires July 1,
26 2022.

27 NEW SECTION. **Sec. 13.** Section 6 of this act takes effect July
28 1, 2022.

29 NEW SECTION. **Sec. 14.** Sections 1 through 4, 6, and 11 of this
30 act expire June 1, 2023.

31 NEW SECTION. **Sec. 15.** Sections 1 through 5 and 7 through 11 of
32 this act are necessary for the immediate preservation of the public
33 peace, health, or safety, or support of the state government and its
34 existing public institutions, and take effect immediately."

NOT ADOPTED 04/15/2021

1 On page 1, line 1 of the title, after "decision;" strike the
2 remainder of the title and insert "amending RCW 69.50.4011,
3 69.50.4013, 69.50.412, 69.50.445, 69.41.030, 69.41.030, 2.24.010,
4 2.24.040, and 9.94A.728; adding a new section to chapter 69.50 RCW;
5 creating a new section; prescribing penalties; providing an effective
6 date; providing expiration dates; and declaring an emergency."

EFFECT: (1) Removes the definition of personal use amount.

(2) Makes possession of a controlled substance, counterfeit substance, or legend drug by a person 21 years of age or older a class 2 civil infraction. To the extent resources are available, the court must refer the individual for diversion or treatment.

(3) Makes possession of a controlled substance, counterfeit substance, or legend drug by a person under the age of 21 a class 3 civil infraction, subject to a fine or participation in four hours of community restitution or both. The court may also require chemical dependency treatment evaluation.

(4) Makes possession of drug paraphernalia for personal use a class 2 civil infraction for a person 21 years of age or older and a class 3 civil infraction for those under the age of 21.

(5) Creates a class 1 civil infraction for disposing of drug paraphernalia in a public place.

(6) Requires HCA and DOH to convene a work group to develop recommendations for reforming laws and practices to align with the goal of treating substance use disorder as a disease rather than a criminal behavior.

(7) Expires provisions modifying drug possession penalties on June 1, 2023.

(8) Authorizes the presiding judge of the superior court of any county in the state to appoint court commissioners to assist the court with adult criminal cases, including the authority to conduct resentencing hearings and vacate convictions pursuant to *State v. Blake*.

(9) Clarifies a person may be released from confinement if *State v. Blake* results in vacation of the person's conviction or resentencing and the person has served a term of confinement in excess of the new sentence.

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