**5476.E AMH GOOD H1627.2 - NOT FOR FLOOR USE**

**ESB 5476** - H AMD TO APP COMM AMD (H-1622.1/21) **762**

By Representative Goodman

**ADOPTED 04/24/2021**

On page 13, line 30, after "including" insert "persons with co-occurring substance use disorders and mental health conditions, and"

On page 13, beginning on line 33, after "by the" strike all material through "commission" on line 34 and insert "commission in collaboration with the University of Washington behavioral health institute"

On page 13, beginning on line 37, after "training, the" strike "behavioral health institute" and insert "commission"

On page 14, beginning on line 30, after "use" strike all material through "agency" on line 32 and insert "during in-service training"

On page 15, beginning on line 21, after "misdemeanor." strike all material through "treatment." on line 25 and insert "The prosecutor is encouraged to divert such cases for assessment, treatment, or other services."

On page 15, line 33, after "(2)" strike all material through "~~any~~)) A" and insert "Except as provided in RCW 69.50.4014, any"

Beginning on page 15, line 36, after "(3)" strike all material through "treatment." on page 16, line 2 and insert "The prosecutor is encouraged to divert cases under this section for assessment, treatment, or other services."

On page 17, after line 3, insert the following:

**"Sec.**  RCW 69.50.4014 and 2015 2nd sp.s. c 4 s 505 are each amended to read as follows:

Except as provided in RCW 69.50.401(2)(c) or as otherwise authorized by this chapter, any person found guilty of knowing possession of forty grams or less of marijuana is guilty of a misdemeanor. The prosecutor is encouraged to divert cases under this section for assessment, treatment, or other services."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 18, beginning on line 16, after "misdemeanor." strike all material through "treatment." on line 20 and insert "The prosecutor is encouraged to divert such cases for assessment, treatment, or other services."

On page 19, beginning on line 30, after "misdemeanor." strike all material through "treatment." on line 34 and insert "The prosecutor is encouraged to divert such cases for assessment, treatment, or other services."

On page 19, after line 34, insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 10.31 RCW to read as follows:

(1) For all individuals who otherwise would be subject to arrest for possession of a counterfeit substance under RCW 69.50.4011, possession of a controlled substance under RCW 69.50.4013, possession of 40 grams or less of marijuana under RCW 69.50.4014, or possession of a legend drug under RCW 69.41.030(2)(b), in lieu of jail booking and referral to the prosecutor, law enforcement shall offer a referral to assessment and services available pursuant to RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include the recovery navigator program established under section 2 of this act.

(2) If law enforcement agency records reflect that an individual has been diverted to referral for assessment and services twice or more previously, officers may, but are not required to, make additional diversion efforts.

(3) Nothing in this section precludes prosecutors from diverting or declining to file any charges for possession offenses that are referred under RCW 69.50.4011, 69.50.4013, 69.50.4014, or 69.41.030(2)(b) in the exercise of their discretion."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 20, line 27, strike all of sections 13 through 17

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 31, at the beginning of line 10, strike all material through "(~~69.50.4014~~)" on line 11 and insert "E Possession of Marihuana < 40 grams E

(69.50.4014)"

On page 38, beginning on line 26, strike all of section 20

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 52, after line 11, insert the following:

**"Sec.**  RCW 10.64.110 and 1977 ex.s. c 259 s 1 are each amended to read as follows:

(1) Following June 15, 1977, except as provided in subsection (3) of this section, there shall be affixed to the original of every judgment and sentence of a felony conviction in every court in this state and every order adjudicating a juvenile to be a delinquent based upon conduct which would be a felony if committed by an adult, a fingerprint of the defendant or juvenile who is the subject of the order. When requested by the clerk of the court, the actual affixing of fingerprints shall be done by a representative of the office of the county sheriff.

(2) The clerk of the court shall attest that the fingerprints appearing on the judgment in sentence, order of adjudication of delinquency, or docket, is that of the individual who is the subject of the judgment or conviction, order, or docket entry.

(3) Amended judgment and sentences issued pursuant to *State v. Blake*, No. 96873-0 (Feb. 25, 2021), are exempt from the fingerprinting requirements in subsection (1) of this section when there are no additional offenses of conviction from the original judgment and sentence and the defendant is in custody in a correctional facility. In such cases, the amended judgment and sentence shall reference the original judgment and sentence and the fingerprints affixed thereto."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 52, beginning on line 20, strike all of sections 25 and 26

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 52, line 33, after "Sections" strike "1 through 10, 12, 18, 19, 21 through 24, and 26" and insert "1 through 11 and 13 through 21"

On page 53, line 7, after "Sections" strike "8, 9, 11, 19, and 24" and insert "8 through 10, 12, 15, and 16"

On page 53, beginning on line 9, strike all of section 31

Renumber the remaining section consecutively and correct any internal references accordingly.

EFFECT: Removes provisions requiring a prosecutor to divert to treatment alleged violations of possession of a controlled substance, possession of a counterfeit substance, or possession of a legend drug. Requires instead that, for such violations, law enforcement officers must offer a referral to available assessment and services in lieu of jail booking and referral to the prosecutor. Provides that if law enforcement records indicate that a person has previously been diverted to referral for assessment and services at least twice, the officer may, but is not required to, make additional diversion efforts. Provides that prosecutors are not precluded from exercising discretion to divert or decline to file charges when referred drug possession cases, and are encouraged to divert such cases for assessment, treatment, or other services.

Removes provisions that reclassify misdemeanor drug possession offenses as class 2 civil infractions on July 1, 2023, and instead reverts to current law for possession offenses on that date.

Provides that law enforcement training on interaction with persons with substance use disorders must be developed by the Criminal Justice Training Commission in collaboration with the University of Washington Behavioral Health Institute, rather than by the University of Washington Behavioral Health Institute in collaboration with the Criminal Justice Training Commission. Specifies that, for purposes of the training, persons with substance use disorders includes persons with co-occurring substance use disorders and mental health conditions. Provides that, in addition to including the training in basic law enforcement training, the training must be made available to law enforcement agencies for use during in-service training (rather than for use at the agencies' convenience and determined by internal training needs and resources).

Makes an exception to the requirement that the defendant's fingerprints are affixed to the judgment and sentence for circumstances in which the judgment and sentence is an amended judgment and sentence issued pursuant to *State v. Blake*, there are no other offenses of conviction from the original judgment and sentence, and the defendant is in custody in a correctional facility.