

E2SSB 5536 - H COMM AMD

By Committee on Community Safety, Justice, & Reentry

NOT ADOPTED 04/11/2023

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that substance use
4 disorders are a public health issue. Solutions must not only address
5 criminal legal responses, but must be data-driven and evidence-based,
6 and must represent best practices, working directly with people who
7 use drugs to prevent overdose and infectious disease transmission,
8 and improve the physical, mental, and social well-being of those
9 served. The state must follow principles of harm reduction,
10 comprising practical strategies aimed at reducing negative
11 consequences associated with drug use, including safer use of
12 supplies as well as care settings, staffing, and interactions that
13 are person-centered, supportive, and welcoming.

14 The legislature finds that the recommendations of the substance
15 use recovery services advisory committee reflect diligent work by
16 individuals with a range of professional and personal experience, who
17 brought that experience to the committee, and whose expertise is
18 reflected in the recommendations.

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

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

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

25 (a) Create or deliver a counterfeit substance;

26 (b) Knowingly possess a counterfeit substance; or

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

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

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

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

10 (c) Any other counterfeit substance classified in Schedule I, II,
11 or III, is guilty of a class C felony punishable according to chapter
12 9A.20 RCW;

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

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

18 (3) (a) A violation of subsection (1) (b) or (c) of this section is
19 a misdemeanor. The prosecutor is encouraged to divert such cases for
20 assessment, treatment, or other services.

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

30 (c) Upon arraignment for a violation of subsection (1) (b) or (c)
31 of this section, the court shall determine whether the defendant has
32 been advised by the defendant's counsel about the pretrial diversion
33 opportunity described in section 10 of this act.

34 (d) For the purposes of this section, "public place" has the same
35 meaning as defined in RCW 66.04.010, but the exclusions in RCW
36 66.04.011 do not apply.

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

1 (1) ~~((~~11~~))~~ Except as otherwise authorized by this chapter, it is
2 unlawful for any person to:

3 (a) Knowingly possess a controlled substance unless the substance
4 was obtained directly from, or pursuant to, a valid prescription or
5 order of a practitioner while acting in the course of his or her
6 professional practice(~~(, or except as otherwise authorized by this~~
7 chapter)); or

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

13 (2) (a) Except as provided in RCW 69.50.4014 or 69.50.445, ((any
14 person who violates this section is guilty of a class C felony
15 punishable under chapter 9A.20 RCW)) a violation of subsection (1)(a)
16 or (b) of this section is a misdemeanor. The prosecutor is encouraged
17 to divert such cases for assessment, treatment, or other services.

18 (b) 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 (c) Upon arraignment for a violation of subsection (1)(a) or (b)
28 of this section, the court shall determine whether the defendant has
29 been advised by the defendant's counsel about the pretrial diversion
30 opportunity described in section 10 of this act.

31 (3) (a) The possession, by a person ~~((~~twenty-one~~))~~ 21 years of age
32 or older, of useable cannabis, cannabis concentrates, or cannabis-
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 cannabis, useable cannabis, cannabis
37 concentrates, and cannabis-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
40 employee of a common carrier when performing the duties authorized in

1 accordance with RCW 69.50.382 and 69.50.385, is not a violation of
2 this section, this chapter, or any other provision of Washington
3 state law.

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

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

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

13 (iii) (~~(Thirty-six)~~) 36 ounces of cannabis-infused product in
14 liquid form; or

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

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

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

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

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

28 (6) The possession by a qualifying patient or designated provider
29 of cannabis concentrates, useable cannabis, cannabis-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 (7) For the purposes of this section, "public place" has the same
34 meaning as defined in RCW 66.04.010, but the exclusions in RCW
35 66.04.011 do not apply.

36 **Sec. 4.** 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 such cases for
3 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 (3) Upon arraignment for violation of this section, the court
14 shall determine whether the defendant has been advised by the
15 defendant's counsel about the pretrial diversion opportunity
16 described in section 10 of this act.

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

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

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

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

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

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

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

1 established under RCW 71.24.589, and the recovery navigator program
2 established under RCW 71.24.115.

3 (e) Upon arraignment for a violation of this section involving
4 knowing possession, or knowing possession and use in a public place,
5 the court shall determine whether the defendant has been advised by
6 the defendant's counsel about the pretrial diversion opportunity
7 described in section 10 of this act.

8 (3) 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 **Sec. 6.** RCW 69.50.509 and 1987 c 202 s 228 are each amended to
12 read as follows:

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

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

1 Subject to the availability of funds appropriated for this
2 specific purpose, the Washington state patrol bureau of forensic
3 laboratory services shall aim to complete the necessary analysis for
4 any evidence submitted for a suspected violation of RCW 69.50.4011(1)
5 (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) within
6 45 days of receipt of the request for analysis.

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

10 Part II - Relating to Drug Paraphernalia

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

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

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

30 (b) Water pipes;

31 (c) Carburetion tubes and devices;

32 (d) Smoking and carburetion masks;

33 (e) Miniature cocaine spoons and cocaine vials;

34 (f) Chamber pipes;

35 (g) Carburetor pipes;

36 (h) Electric pipes;

37 (i) Air-driven pipes; and

38 (j) Ice pipes or chillers.

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

4 (3) Nothing in subsection (1) of this section prohibits (~~legal~~)
5 distribution (~~of injection~~) or use of public health supplies
6 including, but not limited to, syringe equipment, smoking equipment,
7 or drug testing equipment, through public health ((and)) programs,
8 community-based HIV prevention programs, outreach, shelter, and
9 housing programs, and pharmacies. Public health and syringe service
10 program staff taking samples of substances and using drug testing
11 equipment for the purpose of analyzing the composition of the
12 substances or detecting the presence of certain substances are acting
13 legally and are exempt from arrest and prosecution under RCW
14 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b)
15 or (c).

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

18 The state of Washington hereby fully occupies and preempts the
19 entire field of drug paraphernalia regulation within the boundaries
20 of the state including regulation of the use, selling, giving,
21 delivery, and possession of drug paraphernalia. Cities, towns, and
22 counties or other municipalities may enact only those laws and
23 ordinances relating to drug paraphernalia that are specifically
24 authorized by state law and are consistent with this chapter. Such
25 local ordinances must have the same penalty as provided for by state
26 law. Local laws and ordinances that are inconsistent with, more
27 restrictive than, or exceed the requirements of state law may not be
28 enacted and are preempted and repealed, regardless of the nature of
29 the code, charter, or home rule status of such city, town, county, or
30 municipality.

31 **Part III - Providing Opportunities for Pretrial Diversion and**
32 **Vacating Convictions**

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

35 (1) Nothing in this section prevents the defendant, with the
36 consent of the prosecuting attorney as required by RCW 2.30.030, from
37 seeking to resolve charges under RCW 69.50.4011(1) (b) or (c),

1 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) through available
2 therapeutic courts or other alternatives to prosecution. Nothing in
3 this section prevents the defendant or the prosecuting attorney from
4 seeking or agreeing to, or the court from ordering, any other
5 resolution of charges or terms of supervision that suit the
6 circumstances of the defendant's situation and advance stabilization,
7 crime reduction, and justice.

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

13 (a) In all cases, the court may not grant the motion unless the
14 prosecuting attorney consents to the defendant's participation in
15 pretrial diversion. The prosecuting attorney is strongly encouraged
16 to agree to diversion in any case where the defendant is only charged
17 with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013,
18 69.50.4014, or 69.41.030(2) (b) or (c), and in any case where the
19 only additional charge or charges against the defendant are for other
20 nonfelony offenses.

21 (b) 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 for an assessment by any substance use disorder treatment
27 program as designated in chapter 71.24 RCW.

28 (c) In any case where the defendant does not meet the criteria
29 described in (b) of this subsection, the court may grant the motion,
30 continue the hearing, and refer the defendant for an assessment by
31 any substance use disorder treatment program as designated in chapter
32 71.24 RCW.

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

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

37 (b) A general explanation of the roles and authorities of the
38 probation department, the prosecuting attorney, the substance use
39 disorder treatment program, and the court in the process;

1 (c) A clear statement that the court may grant pretrial diversion
2 with respect to any offense under RCW 69.50.4011(1) (b) or (c),
3 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) that is charged,
4 provided that the defendant pleads not guilty to the charge or
5 charges and waives his or her right to a speedy trial, and that upon
6 the defendant's successful completion of pretrial diversion, as
7 specified in subsection (11)(d) of this section, and motion of the
8 defendant, prosecuting attorney, court, or probation department, the
9 court must dismiss the charge or charges against the defendant;

10 (d) A clear statement that if the defendant has not made
11 substantial progress with services provided that are appropriate to
12 the defendant's circumstances, the prosecuting attorney may make a
13 motion to terminate pretrial diversion and schedule further
14 proceedings as otherwise provided in this section;

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

19 (f) A clear statement that under federal law it is unlawful for
20 any person who is an unlawful user of or addicted to any controlled
21 substance to ship or transport in interstate or foreign commerce, or
22 possess in or affecting commerce, any firearm or ammunition, or to
23 receive any firearm or ammunition which has been shipped or
24 transported in interstate or foreign commerce.

25 (4)(a) For defendants who participate in pretrial diversion under
26 this section, the state shall make resources available to assist the
27 defendant in scheduling a substance use disorder evaluation or
28 expedited assessment within seven days of the defendant's agreement
29 to participate in pretrial diversion. The substance use evaluation
30 must be provided at no expense to defendants who qualify for public
31 defense services or who are found to be indigent by the court. The
32 evaluation must be provided at a location that is accessible to the
33 defendant. When necessary and to the extent reasonably possible, the
34 court shall provide the defendant with a list of available local
35 resources to assist the defendant with securing transportation to the
36 substance use disorder evaluation. The court may contract with a
37 third party to provide substance use disorder assessments and
38 services, which may be collocated at the court or be provided at
39 alternative locations.

1 (b) The state shall reimburse local courts for costs associated
2 with the substance use disorder assessments and related travel under
3 this subsection.

4 (5) The substance use disorder counseling agency completing the
5 assessment must make a written report to the court stating its
6 findings and recommendations after the examination if the defendant
7 decides to continue pursuing pretrial diversion. The report shall be
8 filed under seal with the court, and a copy of the report shall be
9 given to the prosecuting attorney, defendant, and defendant's
10 counsel. The report and its copies are confidential and exempt from
11 disclosure under chapter 42.56 RCW. The court shall endeavor to avoid
12 public discussion of the circumstances, history, or diagnoses that
13 could stigmatize the defendant.

14 (6) Subject to the availability of funds appropriated for this
15 specific purpose, the assessment and recommended services or
16 treatment must be provided at no cost for individuals who have been
17 found to be indigent by the court.

18 (7) Once the assessment has been filed with the court, if the
19 report indicates the individual has a substance use disorder, the
20 court shall inform the individual that under federal law the
21 individual may not possess any firearm or ammunition. The court shall
22 thereafter sign an order of ineligibility to possess firearms as
23 required by RCW 9.41.800 and shall require the individual to
24 surrender all firearms in accordance with RCW 9.41.804.

25 (8) No statement, or any information procured therefrom relating
26 to the charge for which the defendant is receiving treatment or
27 services, made by the defendant to any treatment or service provider,
28 that is made during the course of any assessment or services provided
29 by the treatment program pursuant to subsections (4) and (5) of this
30 section, and before the reporting of the findings and recommendations
31 to the court, may be admissible in any action or proceeding brought
32 subsequent to the investigation.

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

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

39 (11)(a) If it appears to the prosecuting attorney that the
40 defendant is not meaningfully engaging in the recommended treatment

1 or services, the prosecuting attorney may make a motion for
2 termination from pretrial diversion.

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

5 (c) If the court finds that the defendant is not meaningfully
6 engaging in the recommended treatment or services, the court must
7 schedule the matter for further proceedings.

8 (d) If the defendant has successfully completed pretrial
9 diversion, including substantial engagement with assessment
10 recommended treatment, or services, at the end of that period, the
11 charge or charges under RCW 69.50.4011(1) (b) or (c), 69.50.4013,
12 69.50.4014, or 69.41.030(2) (b) or (c) must be dismissed.

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

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

23 (2) In courts of limited jurisdiction, if an individual who is
24 convicted of a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013,
25 69.50.4014, or 69.41.030(2) (b) or (c) agrees as a condition of
26 probation to obtain a substance use disorder assessment and
27 participate in any recommended treatment or services, the court shall
28 sentence the individual to a term of confinement of up to 90 days,
29 all of which shall be suspended for a period not to exceed one year.

30 (3) For individuals sentenced under subsection (2) of this
31 section, if a suspended sentence is imposed, the court may order as a
32 condition of probation the individual to obtain a substance use
33 disorder assessment and participate in any recommended treatment or
34 services.

35 (a) The state shall assist the defendant in scheduling a
36 substance use disorder evaluation or expedited assessment within
37 seven days of the defendant's agreement to obtain an assessment and
38 participate in any recommended treatment or services. The substance
39 use disorder evaluation shall be provided at no expense to defendants

1 who qualify for public defense services or who are found to be
2 indigent by the court. The evaluation shall be provided at a location
3 that is accessible to the defendant. When necessary and to the extent
4 reasonably possible, the court shall provide the defendant with a
5 list of available local resources to assist the defendant with
6 securing transportation to the substance use disorder evaluation. The
7 court may contract with a third party to provide substance use
8 disorder assessments and services, which may be collocated at the
9 court or be provided at alternative locations. The state shall
10 reimburse local courts for costs associated with the substance use
11 disorder assessments under this subsection.

12 (b) A substance use disorder assessment shall be prepared by a
13 substance use disorder services or counseling program licensed or
14 certified by the department of health. A copy of the report shall be
15 forwarded to the court and filed under seal. Based on the assessment,
16 the court shall determine whether the person shall be required to
17 complete a course in an alcohol and drug information school licensed
18 or certified by the department of health or more sustained services
19 provided by a licensed behavioral health care provider, peer
20 counseling program, or other case management program.

21 (c) Once the assessment has been filed with the court, if the
22 report indicates the individual has a substance use disorder, the
23 court shall inform the individual that under federal law the
24 individual may not possess any firearm or ammunition. The court shall
25 thereafter sign an order of ineligibility to possess firearms as
26 required by RCW 9.41.800.

27 (d) The assessment shall include the following:

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

30 (ii) Nature of barriers and challenges;

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

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

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

38 (4) A person subject to substance use disorder assessment and
39 treatment or services shall be required by the court to complete a
40 course in an alcohol and drug information school certified by the

1 department of health or to more sustained services provided by a
2 licensed behavioral health care provider, peer counseling program, or
3 other case management program, as determined by the court.

4 (5) All individuals providing assessments under this section
5 shall implement the integrated and comprehensive screening and
6 assessment process for co-occurring substance use and mental health
7 disorders adopted under RCW 71.24.630.

8 (6) If the court directs a service plan after receiving an
9 individual's assessment, the court shall confirm with the
10 individual's indicated service provider that the service provider
11 consents to providing the court with occasional updates on the
12 individual's progress on a schedule acceptable to the court. The
13 updates must be provided at least monthly.

14 (7) Subject to the availability of funds appropriated for this
15 purpose, the substance use disorder assessment and recommended
16 treatment or services as ordered by the court shall be provided at no
17 cost for sentenced individuals who have been found to be indigent by
18 the court.

19 (8) As a condition of probation, the sentenced individual must
20 meaningfully engage with the treatment or services recommendations of
21 the substance use disorder assessment.

22 (9)(a) If it appears to the prosecuting attorney that the
23 sentenced individual is not meaningfully engaging in the recommended
24 treatment or services, the prosecuting attorney shall make a motion
25 for a hearing to consider sanctions. After notice to the sentenced
26 individual, the court shall hold a hearing to determine if a sanction
27 or revocation of the individual's suspended sentence, or any part
28 thereof, is warranted under RCW 3.50.340 or 3.66.069.

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

36 (c) At the hearing, if the court finds by a preponderance of the
37 evidence that the sentenced individual has willfully abandoned or
38 demonstrated a consistent failure to meaningfully participate in the
39 recommended treatment or services, the court shall use its discretion
40 in determining an appropriate sanction.

1 (10) If the individual has successfully completed the recommended
2 treatment or services, the individual must file proof of successful
3 completion with the court. Upon verification that the individual
4 successfully completed the recommended treatment or services, the
5 court must terminate probation and enter an order vacating the
6 individual's conviction.

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

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

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

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

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

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

33 (d) The offense was a violation of RCW 46.61.502 (driving while
34 under the influence), 46.61.504 (actual physical control while under
35 the influence), 9.91.020 (operating a railroad, etc. while
36 intoxicated), or the offense is considered a "prior offense" under
37 RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug
38 violation within ten years of the date of arrest for the prior

1 offense or less than ten years has elapsed since the date of the
2 arrest for the prior offense;

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

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

20 (i) The applicant has not provided written notification of the
21 vacation petition to the prosecuting attorney's office that
22 prosecuted the offense for which vacation is sought, or has not
23 provided that notification to the court;

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

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

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

37 (g) For any offense other than those described in (f) of this
38 subsection, less than three years have passed since the person
39 completed the terms of the sentence, including any financial
40 obligations;

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

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

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

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

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

36 (b) The state has been enjoined from taking enforcement action of
37 the statute or rule to the extent that it interferes with a treaty
38 Indian fishing right as determined under *United States v. Washington*,
39 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp.

1 899 (D. Oregon 1969), and any posttrial orders of those courts, or
2 any other state supreme court or federal court decision.

3 (5) Every person convicted of a misdemeanor cannabis offense, who
4 was (~~twenty-one~~) 21 years of age or older at the time of the
5 offense, may apply to the sentencing court for a vacation of the
6 applicant's record of conviction for the offense. A misdemeanor
7 cannabis offense includes, but is not limited to: Any offense under
8 RCW 69.50.4014, from July 1, 2004, onward, and its predecessor
9 statutes, including RCW 69.50.401(e), from March 21, 1979, to July 1,
10 2004, and RCW 69.50.401(d), from May 21, 1971, to March 21, 1979, and
11 any offense under an equivalent municipal ordinance. If an applicant
12 qualifies under this subsection, the court shall vacate the record of
13 conviction.

14 (6) If an individual convicted of a violation or violations of
15 RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2)
16 (b) or (c) successfully completes a substance use disorder treatment
17 or services program and files proof of completion with the court, the
18 prosecutor shall make a motion to vacate the individual's conviction
19 or convictions. Upon verification that the individual successfully
20 completed the substance use disorder treatment program, the court
21 shall grant the motion and vacate the conviction or convictions.

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

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

1 (b) When a court vacates a record of domestic violence as defined
2 in RCW 10.99.020 under this section, the state may not use the
3 vacated conviction in a later criminal prosecution unless the
4 conviction was for: (i) Violating the provisions of a restraining
5 order, no-contact order, or protection order restraining or enjoining
6 the person or restraining the person from going on to the grounds of
7 or entering a residence, workplace, school, or day care, or
8 prohibiting the person from knowingly coming within, or knowingly
9 remaining within, a specified distance of a location, a protected
10 party's person, or a protected party's vehicle (RCW 10.99.040,
11 10.99.050, 26.09.300, 26.26B.050, 26.44.063, 26.44.150, or 26.52.070,
12 or any of the former RCW 26.50.060, 26.50.070, 26.50.130, and
13 74.34.145); (ii) stalking (RCW 9A.46.110); or (iii) a domestic
14 violence protection order or vulnerable adult protection order
15 entered under chapter 7.105 RCW. A vacated conviction under this
16 section is not considered a conviction of such an offense for the
17 purposes of 27 C.F.R. 478.11.

18 (c) A conviction vacated on or after July 28, 2019, qualifies as
19 a prior conviction for the purpose of charging a present recidivist
20 offense as defined in RCW 9.94A.030 occurring on or after July 28,
21 2019.

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

34 ~~((+9))~~ (10) For the purposes of this section, "cannabis" has the
35 meaning provided in RCW 69.50.101.

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

38 (1) The administrative office of the courts shall collect data
39 and information related to the utilization and outcomes of pretrial

1 diversions pursuant to section 10 of this act, convictions pursuant
2 to section 11 of this act, and motions for vacating convictions
3 pursuant to RCW 9.96.060(6), including but not limited to the
4 following:

5 (a) The recidivism rate for persons who either participated in a
6 pretrial diversion pursuant to section 10 of this act, or who were
7 sentenced pursuant to section 11 of this act and agreed as a
8 condition of probation to obtain a substance use disorder assessment
9 and participate in recommended treatment or services;

10 (b) The number of pretrial diversions offered pursuant to section
11 10 of this act and whether such diversions were terminated, were
12 successfully completed and resulted in a dismissal, or are still
13 ongoing;

14 (c) Aggregated and disaggregated demographic data for pretrial
15 diversions pursuant to section 10 of this act, that identifies trends
16 or disparities in utilization or outcomes based on race, ethnicity,
17 gender, gender expression or identity, disability status, age, and
18 any other appropriate characteristics as determined by the
19 administrative office of the courts;

20 (d) Statistical data comparing the relative utilization and
21 outcomes of pretrial diversions pursuant to section 10 of this act in
22 specific courts and in different regions of Washington;

23 (e) The number of people convicted of a violation of RCW
24 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b)
25 or (c);

26 (f) The number of people sentenced pursuant to section 11 of this
27 act who agreed as a condition of probation to obtain a substance use
28 disorder assessment and participate in recommended treatment or
29 services;

30 (g) Aggregated and disaggregated demographic data for people
31 convicted of a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013,
32 69.50.4014, or 69.41.030(2) (b) or (c), that identifies trends or
33 disparities in sentencing for and vacating of such convictions based
34 on race, ethnicity, gender, gender expression or identity, disability
35 status, age, and any other appropriate characteristics as determined
36 by the administrative office of the courts; and

37 (h) Statistical data comparing the sentences imposed pursuant to
38 section 11 of this act, and the convictions vacated pursuant to RCW
39 9.96.060(6), in specific courts and in different regions of
40 Washington.

1 (2) The administrative office of the courts shall, in cooperation
2 with the Washington state patrol and the Washington association of
3 sheriffs and police chiefs, collect data and information related to
4 reported violations of RCW 69.50.4011(1) (b) or (c), 69.50.4013,
5 69.50.4014, and 69.41.030(2) (b) or (c) responded to by law
6 enforcement, including but not limited to the following:

7 (a) Whether such violations were deferred to treatment in lieu of
8 further legal system involvement, or referred to the prosecuting
9 attorney for potential charges;

10 (b) The number of such violations involving repeat offenders; and

11 (c) The number of such violations involving persons who
12 previously participated in pretrial diversion pursuant to section 10
13 of this act, or who were previously sentenced pursuant to section 11
14 of this act and agreed as a condition of probation to obtain a
15 substance use disorder assessment and participate in recommended
16 treatment or services.

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

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

22 **Sec. 14.** RCW 36.70A.200 and 2021 c 265 s 2 are each amended to
23 read as follows:

24 (1)(a) The comprehensive plan of each county and city that is
25 planning under RCW 36.70A.040 shall include a process for identifying
26 and siting essential public facilities. Essential public facilities
27 include those facilities that are typically difficult to site, such
28 as airports, state education facilities and state or regional
29 transportation facilities as defined in RCW 47.06.140, regional
30 transit authority facilities as defined in RCW 81.112.020, state and
31 local correctional facilities, solid waste handling facilities,
32 opioid treatment programs including both mobile and fixed-site
33 medication units, recovery residences, harm reduction programs
34 excluding safe injection sites, and inpatient facilities including
35 substance ((abuse)) use disorder treatment facilities, mental health
36 facilities, group homes, community facilities as defined in RCW
37 72.05.020, and secure community transition facilities as defined in
38 RCW 71.09.020.

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

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

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

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

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

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

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

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

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

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

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

15 (b) A consideration for grants or loans provided under RCW
16 43.17.250(3); or

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

19 **Sec. 15.** RCW 71.24.589 and 2019 c 314 s 29 are each amended to
20 read as follows:

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

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

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

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

11 (a) Long-term case management for individuals with substance use
12 disorders;

13 (b) Facilitation and coordination with community resources
14 focusing on overdose prevention;

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

17 (d) Facilitation and coordination with community resources
18 providing physical and behavioral health services;

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

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

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

25 (h) Prosecutorial support for diversion services.

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

36 **Sec. 16.** RCW 71.24.590 and 2019 c 314 s 30 are each amended to
37 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 17.** A new section is added to chapter 43.330
2 RCW to read as follows:

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

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

11 NEW SECTION. **Sec. 18.** RCW 10.31.115 (Drug possession—Referral
12 to assessment and services) and 2021 c 311 s 13 are each repealed.

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

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

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

18 (1) Make sufficient funding available to support establishment of
19 an adequate and equitable stock of recovery residences in each region
20 of the state, including by expansion of a revolving fund program to
21 make loans or grants available for recovery residence operators to
22 use for necessary capital expenses;

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

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

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

1 **Sec. 20.** RCW 84.36.043 and 1998 c 174 s 1 are each amended to
2 read as follows:

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

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

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

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

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

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

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

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

23 (3) As used in this section:

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

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

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

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

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

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

1 NEW SECTION. **Sec. 21.** (1) This section is the tax preference
2 performance statement for the tax preference contained in section 20,
3 chapter . . ., Laws of 2023 (section 20 of this act). This
4 performance statement is only intended to be used for subsequent
5 evaluation of the tax preference. It is not intended to create a
6 private right of action by any party or to be used to determine
7 eligibility for preferential tax treatment.

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

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

16 (4) To measure the effectiveness of the tax exemption provided in
17 section 20 of this act in achieving the specific public policy
18 objectives described in subsection (3) of this section, the joint
19 legislative audit and review committee must evaluate:

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

22 (b) The amount of annual property tax relief resulting from the
23 tax exemption under section 20 of this act;

24 (c) The average annual number of people housed at recovery
25 residences located on property qualifying for the exemption under
26 section 20 of this act;

27 (d) The annualized amount charged for housing at recovery
28 residences located on property qualifying for the exemption under
29 section 20 of this act and the annualized estimated increase in the
30 charge for housing if the properties had not been eligible for the
31 exemption; and

32 (e) The annual amount of expenditures by nonprofits to maintain
33 recovery residences located on property qualifying for the exemption
34 under section 20 of this act.

35 (5) The legislature intends to extend the expiration date of the
36 property tax exemption under section 20 of this act if the review by
37 the joint legislative audit and review committee finds that:

38 (a) The number of properties qualifying for the exemption under
39 section 20 of this act has increased;

1 (b) The number of individuals using recovery housing located on
2 property qualifying for the exemption under section 20 of this act
3 has increased; and

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

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

10 (a) Initial applications for the tax exemption under section 20
11 of this act as approved by the department of revenue under RCW
12 84.36.815;

13 (b) Annual financial statements prepared by nonprofit entities
14 claiming the tax exemption under section 20 of this act;

15 (c) Filings with the federal government to maintain federal tax
16 exempt status by nonprofit organizations claiming the tax exemption
17 under section 20 of this act; and

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

20 **Part VI – Training for Parents of Children with Substance Use Disorder**
21 **and Caseworkers Within the Department of Children, Youth, and**
22 **Families**
23

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

26 (1) The authority, in consultation with the department of
27 children, youth, and families, shall develop a training for parents
28 of children and transition age youth with substance use disorders by
29 June 30, 2024, addressing the following:

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

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

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

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

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

6 NEW SECTION. **Sec. 23.** A new section is added to chapter 43.216
7 RCW to read as follows:

8 The department must make opioid overdose reversal medication
9 available for use by caseworkers or employees that may come in
10 contact with individuals experiencing overdose and must make
11 appropriate training available.

12 **Part VII - Data Support for Recovery Navigator Programs**

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

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

29 (1) The authority shall contract with the Washington state
30 institute for public policy to conduct a study of the long-term
31 effectiveness of the recovery navigator program under RCW 71.24.115
32 with reports due by June 30th in the years 2028, 2033, and 2038. The
33 Washington state institute for public policy shall collaborate with
34 the authority, the law enforcement assisted diversion national
35 support bureau, and the substance use recovery services advisory
36 committee under RCW 71.24.546 on the topic of data collection and to

1 determine the parameters of the report, which shall include
2 recommendations, if any, for modification and improvement of the
3 recovery navigator program. The law enforcement assisted diversion
4 national support bureau may supplement the report with additional
5 recommendations to improve the recovery navigator program by
6 enhancing its ability to provide a viable, accepted, community-based
7 care alternative to jail and prosecution. The authority shall
8 cooperate with the Washington state institute for public policy to
9 provide data for this report.

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

16 **Part VIII - Establishing Rules and Payment Structures for Health**
17 **Engagement Hubs**

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

20 (1) The authority shall develop payment structures for health
21 engagement hubs by January 1, 2025.

22 (2) A health engagement hub:

23 (a) Serves as an all-in-one location where people who use drugs
24 can access a range of medical, harm reduction, treatment, and social
25 services. A health engagement hub may not provide supervised
26 injection services;

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

35 (c) Provides referrals or access to methadone and other
36 medications for opioid addiction;

1 (d) Functions as a patient-centered medical home by offering
2 high-quality, cost-effective patient-centered care, including wound
3 care;

4 (e) Provides harm reduction services and supplies;

5 (f) Provides linkage to housing, transportation, and other
6 support services; and

7 (g) Is open to youth as well as adults.

8 (3) To the extent allowed under federal law, the authority shall
9 direct medicaid managed care organizations to adopt a value-based
10 bundled payment methodology in contracts with health engagement hubs
11 and other opioid treatment providers.

12 (4) The authority shall make sufficient funding available to
13 ensure that a health engagement hub is available within a two-hour
14 drive for all communities and that there is at least one health
15 engagement hub available per 200,000 residents in Washington state.

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

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

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

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

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

30 Subject to funding provided for this specific purpose, the
31 authority must collaborate with the department and the department of
32 social and health services to expand the Washington recovery helpline
33 and the recovery readiness asset tool to provide a dynamically
34 updated statewide behavioral health treatment and recovery support
35 services mapping tool that includes a robust resource database for
36 those seeking services and a referral system to be incorporated

1 within the locator tool to help facilitate the connection between an
2 individual and a facility that is currently accepting new referrals.
3 The tool must include dual interface capability, one for public
4 access and one for internal use and management.

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

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

8 Subject to the availability of funds appropriated for this
9 specific purpose, the authority shall:

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

12 (2) Provide support funds to new and established department of
13 health certified clubhouses throughout the state;

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

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

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

22 **Part XII - Streamlining Substance Use Disorder Treatment Intakes**

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

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

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

5 **Part XIII - Miscellaneous Provisions**

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

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

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

12 NEW SECTION. **Sec. 33.** Sections 2 through 6, 8 through 12, and
13 32 of this act are necessary for the immediate preservation of the
14 public peace, health, or safety, or support of the state government
15 and its existing public institutions, and take effect July 1, 2023.

16 NEW SECTION. **Sec. 34.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected."

20 Correct the title.

EFFECT: Makes the following changes to the underlying bill:

(1) Reclassifies the offenses of possession of a controlled substance and possession of a counterfeit substance as misdemeanors, rather than gross misdemeanors.

(2) Provides that knowing possession and use of a controlled substance, counterfeit substance, or legend drug in a public place constitutes a misdemeanor offense, subject to certain exceptions.

(3) Provides that, upon arraignment for applicable drug offenses, the court is required to determine whether the defendant has been advised by the defendant's attorney about pretrial diversion, rather than give such advisement directly to the defendant.

(4) Eliminates the specific appropriation made for the Washington state patrol related to testing evidence submitted for suspected drug offenses within 45 days, and instead makes such testing requirements subject to the availability of funds.

(5) 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.

(6) Provides that the state occupies and preempts the field of drug paraphernalia regulation.

(7) Modifies provisions related to pretrial diversions for certain drug offenses, including by:

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

- Providing that a court may not grant a motion for pretrial diversion without the prosecuting attorney's consent;

- Encouraging prosecuting attorneys to divert cases meeting certain criteria;

- Providing that, if the prosecuting attorney consents, the court must grant a motion for pretrial diversion in circumstances when the defendant is only charged with a particular drug offense, and the defendant has not been convicted of any offenses committed after July 1, 2023;

- Requiring the court to provide the defendant and the defendant's counsel with specific information prior to granting a motion for pretrial diversion;

- Requiring the state to make resources available to assist applicable defendants with scheduling, rather than obtaining, a substance use disorder (SUD) evaluation or expedited assessment within seven days of the defendant's agreement to participate in pretrial diversion;

- Requiring the court, when necessary and to the extent reasonably possible, to provide an applicable defendant with a list of available resources to assist the defendant with securing transportation to a SUD evaluation;

- Providing that an SUD counseling agency, rather than treatment program, must make a written report to the court stating its findings and recommendations, and that such report must be filed under seal with the court, with a copy given to certain parties;

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

- Requiring the court to endeavor to avoid public discussion of certain stigmatizing topics;

- Limiting when the prosecuting attorney may make a motion for termination from pretrial diversion to when it appears that the defendant is not meaningfully engaging in the recommended treatment or services; and

- Providing that successful completion of pretrial diversion includes substantial engagement, rather than compliance, with assessment, recommended treatment, or services.

(8) Modifies provisions related to sentencing requirements for certain drug offenses, including by:

- Expanding the circumstances when a court is required to impose certain sentences and conditions for drug offense convictions to include when a person convicted of knowing possession and use of a controlled substance, counterfeit substance, or legend drug in a public place agrees to obtain an SUD assessment and recommended treatment or services as a condition of probation;

- Providing that the state, rather than the court, must assist the defendant in scheduling, rather than obtaining, a substance use disorder evaluation or expedited assessment within seven days of the defendant's agreement;

- Eliminating the provisions requiring the court to grant a person credit for all confinement time served presentencing for certain drug offenses when such confinement was solely in regard to the offense for which the person is being sentenced;

- Eliminating the 21-day mandatory minimum sentences for persons convicted of certain drug offenses who refuse to obtain an SUD assessment and recommended treatment or services as a condition of probation;

- Requiring the court, when necessary and to the extent reasonably possible, to provide an applicable defendant with a list of available resources to assist the defendant with securing transportation to a SUD evaluation as a part of an agreed term of probation;

- Providing that a licensed SUD services or counseling program, rather than a treatment program, must prepare an SUD assessment, rather than a diagnostic evaluation and treatment recommendation, as a part of probationary conditions imposed on applicable persons;

- Requiring the court to determine whether an applicable person, based on the person's SUD assessment, must be required to complete sustained services from a licensed behavioral health care provider, peer counseling program, or other case management program, rather than complete intensive treatment in an approved treatment program;

- Modifying the specific information that must be included in an applicable person's SUD assessment;

- Requiring the court to confirm that an applicable person's service provider consents to providing the court with, at a minimum, monthly updates on the person's progress on a schedule acceptable to the court;

- Requiring meaningful engagement, rather than compliance, with treatment or services as a condition of probation for applicable persons;

- Providing that only the prosecuting attorney, rather than the prosecuting attorney or the court, must make a motion for a hearing to consider sanctions when it appears that an applicable person is not meaningfully engaging in treatment or services;

- Eliminating the mandatory minimum sanctions that the court must impose if it finds that an applicable person has willfully abandoned or demonstrated a consistent failure to meaningfully participate in treatment or services; and

- Requiring the court to terminate probation and enter an order vacating an applicable person's conviction upon verification that the person successfully completed treatment and services.

(9) Provides that if a person convicted of certain drug offenses successfully completes an SUD treatment or services program and files proof of completion, the prosecuting attorney must make a motion to vacate the person's conviction or convictions, and the court must grant the motion upon verifying successful completion.

(10) Requires the administrative office of the courts (AOC) to collect data and information, and submit an annual report, on the following:

- The recidivism rate for persons who participate in pretrial diversion or agree to obtain a substance use disorder assessment and participate in recommended treatment or services as a condition of probation for certain drug offenses; and

- The utilization and outcomes of specific forms of pretrial diversion, sentencing, and postconviction relief for certain drug offenses.

(11) Requires the AOC, in cooperation with the Washington State Patrol and the Washington Association of Sheriffs and Police Chiefs, to collect data, and submit an annual report, on information related to reported violations of certain drug offenses responded to by law enforcement.

(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) Eliminates the requirement for the Department of Health (DOH) to hold a public hearing before making a decision on an application for licensing or certifying an opioid treatment program.

(14) Eliminates the amendatory provisions related to the reporting obligations of behavioral health or service providers, and the authority of the prosecuting attorney to file charges, when an applicable person diverted to a provider violates the terms of the diversion.

(15) Eliminates the provision creating a right to court-appointed counsel for certain parenting plan or child custody proceedings.

(16) Codifies the provision related to the health care authority (HCA) and the department of children, youth, and families' training for parents of children with SUDs in chapter 71.24 RCW, rather than in chapter 43.216 RCW.

(17) Requires the HCA to engage and consult with the law enforcement assisted diversion national support bureau (LEAD National Support Bureau) on data integration approaches, platforms, quality assurance protocols, and validation practices for the HCA's development and implementation of a data integration platform to support recovery navigator programs.

(18) Modifies the Washington state institute for public policy's contracted study on the long-term effectiveness of recovery navigator programs to also include collaboration with and supplementation from the LEAD national support bureau.

(19) Eliminates the specific appropriations made for the HCA related to funding for opioid use disorder medication, DOH certified clubhouses, 23-hour crisis relief centers, certain community grants, and LEAD programs, and instead makes those provisions subject to the availability of appropriated funds.

(20) Provides that the amendatory provisions related to certain drug offenses, and the provisions related to the AOC's data and information collection and reports, are effective July 1, 2023.

(21) Adds a severability clause.

(22) Modifies language in the intent section.

--- END ---