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**SENATE BILL 5624**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Dhingra, Kuderer, Nguyen, Saldaña, Lovelett, Wellman, Nobles, Valdez, and C. Wilson

AN ACT Relating to implementing the recommendations of the substance use recovery services advisory committee; amending RCW 69.50.4011, 69.50.4013, 69.41.030, 84.36.043, 69.50.4121, 36.70A.200, and 71.24.590; reenacting and amending RCW 13.34.030; adding a new section to chapter 69.50 RCW; adding a new section to chapter 26.12 RCW; adding new sections to chapter 71.24 RCW; adding a new section to chapter 43.216 RCW; adding a new section to chapter 43.330 RCW; creating new sections; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that the substance use recovery services advisory committee was tasked with developing measures to help individuals with substance use disorder access outreach, treatment, and recovery support services. The committee was responsible for identifying services that would be low barrier, person-centered, informed by people with lived experience, and culturally and linguistically appropriate.

The legislature further finds while the urgent public health needs did not begin with the state supreme court decision in 2021 and subsequent enacted legislation, there must be a system in place that helps people with substance use disorders. Any solution must address not only the criminal legal response, but also appropriate access to medical, harm reduction, and social services.

The legislature further finds that the recommendations made by the substance use recovery services advisory committee reflect hours of diligent work by individuals with a range of professional and personal experience, who brought that expertise to the group, and whose expertise is reflected in the committee recommendations.

**PART I – Decriminalization of Possession of a Personal Amount of a Counterfeit Substance, Controlled Substance, or Legend Drug for Persons 21 Years of Age or Older**

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

(1) Except as authorized by this chapter, it is unlawful for ((~~any~~)):

(a) Any person to create((~~,~~)) or deliver((~~, or possess~~)) a counterfeit substance;

(b) Any person to knowingly possess more than a personal amount of a counterfeit substance; or

(c) Any person under the age of 21 to knowingly possess a counterfeit substance of any amount.

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

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

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

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

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

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

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

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

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

(a) Any person to knowingly possess more than a personal amount of a controlled substance; or

(b) A person under the age of 21 to knowingly possess a controlled substance of any amount.

(2) Except as provided in RCW 69.50.4014((~~, any~~)):

(a) Any person who violates subsection (1)(a) of this section is guilty of a ((~~class C felony punishable under chapter 9A.20 RCW.~~

~~(3)~~)) Misdemeanor.

(b) Any person who violates subsection (1)(b) of this section is guilty of a misdemeanor.

(3) The prosecutor is encouraged to divert cases under this section for assessment, treatment, or other services.

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

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

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

(i) One-half ounce of useable cannabis;

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

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

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

(b) The act of delivering cannabis or a cannabis product as authorized under this subsection ((~~(4)~~)) (5) must meet one of the following requirements:

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

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

((~~(5)~~)) (6) No person under ((~~twenty-one~~)) 21 years of age may possess, manufacture, sell, or distribute cannabis, cannabis-infused products, or cannabis concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

((~~(6)~~)) (7) The possession by a qualifying patient or designated provider of cannabis concentrates, useable cannabis, cannabis-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

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

(1) ((~~It~~)) Except as provided in subsection (2) of this section, it shall be unlawful for ((~~any~~)):

(a) Any person to sell, deliver, or knowingly possess more than a personal amount of any legend drug ((~~except~~)); or

(b) A person under the age of 21 to knowingly possess a legend drug of any amount.

(2) The sale, delivery, or possession of a legend drug does not constitute a violation of this section upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

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

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

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

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

**PART II – Providing Legal Advocacy for Parents and Families Affected by Substance Use Disorders in Dependency and Child Custody Cases**

**Sec.**  RCW 13.34.030 and 2021 c 304 s 1 and 2021 c 67 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" mean:

(a) Any individual under the age of ((~~eighteen~~)) 18 years; or

(b) Any individual age ((~~eighteen~~)) 18 to ((~~twenty-one~~)) 21 years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of children, youth, and families.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary of the department of social and health services to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age ((~~eighteen~~)) 18, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Educational liaison" means a person who has been appointed by the court to fulfill responsibilities outlined in RCW 13.34.046.

(9) "Experiencing homelessness" means lacking a fixed, regular, and adequate nighttime residence, including circumstances such as sharing the housing of other persons due to loss of housing, economic hardship, fleeing domestic violence, or a similar reason as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

(10) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031. These services may include placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(11) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(12) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(13) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(14) "Guardianship" means a guardianship pursuant to chapter 13.36 RCW or a limited guardianship of a minor pursuant to RCW 11.130.215 or equivalent laws of another state or a federally recognized Indian tribe.

(15) "Housing assistance" means appropriate referrals by the department or other agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or family reunification service as described in RCW 13.34.025(2).

(16) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) ((~~Involuntarily committed to a public mental health facility~~)) In need of or receiving mental health, substance use, or behavioral health services; or

(c) Receiving an annual income, after taxes, of ((~~one hundred twenty-five~~)) 125 percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(17) "Nonminor dependent" means any individual age ((~~eighteen~~)) 18 to ((~~twenty-one~~)) 21 years who is participating in extended foster care services authorized under RCW 74.13.031.

(18) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(19) "Parent" means the biological or adoptive parents of a child, or an individual who has established a parent-child relationship under RCW 26.26A.100, unless the legal rights of that person have been terminated by a judicial proceeding pursuant to this chapter, chapter 26.33 RCW, or the equivalent laws of another state or a federally recognized Indian tribe.

(20) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not remedial services or family reunification services as described in RCW 13.34.025(2).

(21) "Prevention services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child. Prevention services include, but are not limited to, prevention and family services and programs as defined in this section.

(22) "Qualified residential treatment program" means a program that meets the requirements provided in RCW 13.34.420, qualifies for funding under the family first prevention services act under 42 U.S.C. Sec. 672(k), and, if located within Washington state, is licensed as a group care facility under chapter 74.15 RCW.

(23) "Relative" includes persons related to a child in the following ways:

(a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(b) Stepfather, stepmother, stepbrother, and stepsister;

(c) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(d) Spouses of any persons named in (a), (b), or (c) of this subsection, even after the marriage is terminated;

(e) Relatives, as named in (a), (b), (c), or (d) of this subsection, of any half sibling of the child; or

(f) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a ((~~twenty-four~~)) 24 hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(24) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(25) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in RCW 13.38.040.

(26) "Social study" means a written evaluation of matters relevant to the disposition of the case that contains the information required by RCW 13.34.430.

(27) "Supervised independent living" includes, but is not limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. Supervised independent living settings must be approved by the department or the court.

(28) "Voluntary placement agreement" means, for the purposes of extended foster care services, a written voluntary agreement between a nonminor dependent who agrees to submit to the care and authority of the department for the purposes of participating in the extended foster care program.

NEW SECTION. **Sec.**  A new section is added to chapter 26.12 RCW to read as follows:

In any parenting plan or child custody proceeding in which the court determines the child's parent, guardian, or custodian is affected by substance use disorders, mental health disorders, or behavioral health concerns, the parent, guardian, or custodian shall have the right to court-appointed counsel. The court may, in its discretion, appoint counsel for the child upon a finding that the appointment is in the best interests of the child.

**PART III – Funding, Promotion, and Training for Recovery Residences**

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

Subject to the availability of amounts provided for this specific purpose, the authority shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) As used in this section:

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

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

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

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

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

**PART IV – Training for Parents of Children with Substance Use Disorder and Caseworkers Within the Department of Children, Youth, and Families**

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

(1) The department shall develop a training for parents of children and transition age youth with substance use disorders by June 30, 2024, addressing the following:

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

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

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

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

(2) The department shall make this training publicly available and promote the training to licensed foster parents.

(3) The department shall make opioid overdose reversal medication available for use by caseworkers or employees that may come in contact with individuals experiencing overdose and shall make appropriate training available.

**PART V – Removing Language Prohibiting "Giving" or "Permitting to Give" Drug Paraphernalia**

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

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

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

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Miniature cocaine spoons and cocaine vials;

(f) Chamber pipes;

(g) Carburetor pipes;

(h) Electric pipes;

(i) Air-driven pipes; and

(j) Ice pipes or chillers.

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

(3) Nothing in subsection (1) of this section prohibits legal distribution of injection syringe equipment through public health and community-based HIV prevention programs, and pharmacies.

**PART VI – Data Support for Recovery Navigator Programs**

NEW SECTION. **Sec.**  To support recovery navigator programs, the health care authority shall develop and implement a data integration platform by June 30, 2024, to serve as a common database for diversion efforts across the state, to serve as a data collection and management tool for practitioners, and to assist in standardizing definitions and practices. If possible, the authority shall leverage and interact with existing platforms already in use in efforts funded by the authority. The authority shall establish a quality assurance process for behavioral health administrative services organizations, and employ data validation for fields in the data collection workbook.

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

(1) The authority shall contract with the Washington state institute for public policy to conduct a study of the long-term effectiveness of the recovery navigator program under RCW 71.24.115 with reports due by June 30th in the years 2028, 2033, and 2038. The Washington state institute for public policy shall collaborate with the authority and substance use recovery services advisory committee under RCW 71.24.546 on the topic of data collection and to determine the parameters of the report, which shall include recommendations, if any, for modification and improvement of the recovery navigator program. The authority shall cooperate with the Washington state institute for public policy to provide data for this report.

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

**PART VII – Establishing Rules and Payment Structures for Health Engagement Hubs**

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

(1) The authority shall develop licensure standards and payment structures for health engagement hubs by January 1, 2024.

(2) The department shall include invited stakeholders in the rule-making process which shall include, but not be limited to, individuals from geographic regions in Washington with lower population density, eastern Washington, rural areas, and tribal nations.

(3) A health engagement hub:

(a) May be a mobile or fixed-site opioid treatment program medication unit. Fixed-site medication units may operate at sites such as hospitals, federally qualified health centers, syringe service programs, community mental health facilities, skilled nursing facilities, or other settings frequented by people who have not historically been well-served by the behavioral health treatment system;

(b) Provides access to methadone and other medications for opioid addiction;

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

(d) Provides harm reduction services and supplies;

(e) Provides linkage to housing, transportation, and other support services; and

(f) Is open to youth as well as adults.

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

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

**PART VIII – Education and Employment Pathways**

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

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

**PART IX – Providing a Statewide Directory of Recovery Services**

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

Subject to funding provided for this specific purpose, the department shall contract with a vendor to provide a statewide tool to map and direct individuals with behavioral health disorders to treatment and recovery support services locations. The tool shall be dynamically updated.

**PART X – Investing Adequately in Statewide Diversion Services**

NEW SECTION. **Sec.**  It is the intent of the legislature to increase investments in the 2023-2025 biennium substantially over baseline levels established in the 2021-2023 operating and capital budgets to increase the provision of evidence-based prearrest and prefiling diversion programs in all regions of the state. Services which shall be increased and included in every health purchasing region include crisis stabilization units, mobile crisis response services for youth and adults, recovery navigator programs, and law enforcement assisted diversion.

**PART XI – Streamlining Substance Use Disorder Treatment Intakes**

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

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

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

**PART XII – Establishing the Safe-Supply Work Group**

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

(1) Subject to the availability of funds appropriated for this specific purpose, the statewide safe supply work group is created. The purpose of the work group is to evaluate potential models for safe supply services and make recommendations on inclusion of a safe supply framework in the Washington state substance use recovery services plan to provide a regulated, tested supply of controlled substances to individuals at risk of drug overdose. The work group membership shall be reflective of the community of individuals living with substance use disorder, including persons who are black, indigenous, and persons of color, persons with co-occurring substance use disorders and mental health conditions, as well as persons who represent the unique needs of rural communities.

(2) The work group membership shall consist of, but is not limited to, members appointed by the governor representing the following:

(a) At least one adult in recovery from substance use disorder;

(b) At least one youth in recovery from substance use disorder;

(c) One expert from the addictions, drug, and alcohol institute at the University of Washington;

(d) One outreach services provider;

(e) One substance use disorder treatment provider;

(f) One peer recovery services provider;

(g) One recovery housing provider;

(h) One expert in serving persons with co-occurring substance use disorders and mental health conditions;

(i) One expert in antiracism and equity in health care delivery systems;

(j) One employee who provides substance use disorder treatment or services as a member of a labor union representing workers in the behavioral health field;

(k) One representative of the association of Washington healthcare plans;

(l) One representative of sheriffs and police chiefs;

(m) One representative of a federally recognized tribe; and

(n) One representative of local government.

(3) The work group's evaluation shall include, but is not limited to, the following:

(a) Examining the concept of "safe supply," defined as a legal and regulated supply of mind or body altering substances that traditionally only have been accessible through illicit markets;

(b) Examining whether there is evidence that a proposed "safe supply" would have an impact on fatal or nonfatal overdose, drug diversion, or associated health and community impacts;

(c) Examining whether there is evidence that a proposed "safe supply" would be accompanied by increased risks to individuals, the community, or other entities or jurisdictions;

(d) Examining historical evidence regarding the overprescribing of opioids; and

(e) Examining whether there is evidence that a proposed "safe supply" would be accompanied by any other benefits or consequences.

(4) Staffing for the work group shall be provided by the authority.

(5) The work group shall provide a preliminary report and recommendations to the governor and appropriate committees of the legislature by December 1, 2023, and shall provide a final report by December 1, 2024.

**PART XIII – Opioid Treatment Program Rural Access and Expansion**

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

(1)(a) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, opioid treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs including syringe service programs, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, community facilities as defined in RCW 72.05.020, and secure community transition facilities as defined in RCW 71.09.020.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(h) Hold one public hearing in the community in which the facility is proposed to be located. The hearing shall be held at a time and location that are most likely to permit the largest number of interested persons to attend and present testimony. The department shall notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing~~)).

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

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

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

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

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

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

(a) Engages in the treatment of opioid use disorder with medications approved by the United States food and drug administration for the treatment of opioid use disorder and reversal of opioid overdose;

(b) Is either a mobile or fixed-site medication unit; and

((~~(b)~~)) (c) Provides a comprehensive range of medical and rehabilitative services.

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

(1) Subject to funds appropriated for this specific purpose, a program is established in the department to fund the construction costs necessary to start up opioid treatment programs in regions of the state which currently lack access to such programs.

(2) This funding must be used to increase the number of opioid treatment programs in underserved areas such as central and eastern Washington and rural areas.

**--- END ---**