

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SECOND SUBSTITUTE SENATE BILL 5536

Chapter 1, Laws of 2023

68th Legislature
2023 1st Special Session

CONTROLLED SUBSTANCES, COUNTERFEIT SUBSTANCES, LEGEND DRUGS, AND DRUG
PARAPHERNALIA—POSSESSION AND TREATMENT

EFFECTIVE DATE: August 15, 2023—Except for sections 1 through 5, 7
through 11, and 41, which take effect July 1, 2023; and section 6,
which takes effect January 1, 2025.

Passed by the Senate May 16, 2023
Yeas 43 Nays 6

DENNY HECK

President of the Senate

Passed by the House May 16, 2023
Yeas 83 Nays 13

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved May 16, 2023 4:20 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **SECOND ENGROSSED
SECOND SUBSTITUTE SENATE BILL 5536**
as passed by the Senate and the
House of Representatives on the
dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 17, 2023

**Secretary of State
State of Washington**

SECOND ENGROSSED SECOND SUBSTITUTE SENATE BILL 5536

Passed Legislature - 2023 1st Special Session

State of Washington

68th Legislature

2023 Regular Session

By Senate Ways & Means (originally sponsored by Senators Robinson, Lovick, Rolfes, Mullet, Dhingra, Billig, Hasegawa, Keiser, Kuderer, Liias, Lovelett, Nobles, Randall, Stanford, Wellman, and C. Wilson)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to justice system and behavioral health responses
2 for persons experiencing circumstances that involve controlled
3 substances, counterfeit substances, legend drugs, and drug
4 paraphernalia; amending RCW 69.50.4011, 69.50.4013, 69.50.4014,
5 69.41.030, 69.50.509, 69.50.4121, 9.96.060, 36.70A.200, 71.24.589,
6 71.24.590, 10.31.110, and 84.36.043; amending 2021 c 311 s 29
7 (uncodified); adding a new section to chapter 43.43 RCW; adding new
8 sections to chapter 69.50 RCW; adding a new section to chapter 43.330
9 RCW; adding a new section to chapter 26.12 RCW; adding new sections
10 to chapter 71.24 RCW; adding new sections to chapter 43.216 RCW;
11 adding a new section to chapter 2.70 RCW; creating new sections;
12 repealing RCW 10.31.115; prescribing penalties; making
13 appropriations; providing effective dates; and declaring an
14 emergency.

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

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

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

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

3 (a) Create or deliver a counterfeit substance;

4 (b) Knowingly possess a counterfeit substance; or

5 (c) Knowingly use a counterfeit substance in a public place.

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

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

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

17 (c) Any other counterfeit substance classified in Schedule I, II,
18 or III, is guilty of a class C felony punishable according to chapter
19 9A.20 RCW;

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

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

25 (3)(a) A violation of subsection (1)(b) or (c) of this section is
26 a gross misdemeanor punishable by imprisonment of up to 180 days, or
27 by a fine of not more than \$1,000, or by both such imprisonment and
28 fine, however, if the defendant has two or more prior convictions
29 under subsection (1)(b) or (c) of this section occurring after the
30 effective date of this section, a violation of subsection (1)(b) or
31 (c) of this section is punishable by imprisonment for up to 364 days,
32 or by a fine of not more than \$1,000, or by both such imprisonment
33 and fine. The prosecutor is encouraged to divert such cases for
34 assessment, treatment, or other services.

35 (b) No person may be charged under both subsection (1)(b) and (c)
36 of this section relating to the same course of conduct.

37 (c) In lieu of jail booking and referral to the prosecutor, law
38 enforcement is encouraged to offer a referral to assessment and
39 services available under RCW 10.31.110 or other program or entity
40 responsible for receiving referrals in lieu of legal system

1 involvement, which may include, but are not limited to, arrest and
2 jail alternative programs established under RCW 36.28A.450, law
3 enforcement assisted diversion programs established under RCW
4 71.24.589, and the recovery navigator program established under RCW
5 71.24.115.

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

9 (5) For the purposes of this section, "use a counterfeit
10 substance" means to introduce the substance into the human body by
11 injection, inhalation, ingestion, or any other means.

12 **Sec. 2.** RCW 69.50.4013 and 2022 c 16 s 86 are each amended to
13 read as follows:

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

16 (a) Knowingly possess a controlled substance unless the substance
17 was obtained directly from, or pursuant to, a valid prescription or
18 order of a practitioner while acting in the course of his or her
19 professional practice(~~(, or except as otherwise authorized by this~~
20 chapter)); or

21 (b) Knowingly use a controlled substance in a public place,
22 unless the substance was obtained directly from, or pursuant to, a
23 valid prescription or order of a practitioner while acting in the
24 course of his or her professional practice.

25 (2) (a) Except as provided in RCW 69.50.4014 or 69.50.445, (~~any~~
26 person who violates this section is guilty of a class C felony
27 punishable under chapter 9A.20 RCW)) a violation of subsection (1) (a)
28 or (b) of this section is a gross misdemeanor punishable by
29 imprisonment of up to 180 days in jail, or by a fine of not more than
30 \$1,000, or by both such imprisonment and fine, however, if the
31 defendant has two or more prior convictions under subsection (1) (a)
32 or (b) of this section occurring after the effective date of this
33 section, a violation of subsection (1) (a) or (b) of this section is
34 punishable by imprisonment for up to 364 days, or by a fine of not
35 more than \$1,000, or by both such imprisonment and fine. The
36 prosecutor is encouraged to divert such cases for assessment,
37 treatment, or other services.

38 (b) No person may be charged under both subsection (1) (a) and (b)
39 of this section relating to the same course of conduct.

1 (c) In lieu of jail booking and referral to the prosecutor, law
2 enforcement is encouraged to offer a referral to assessment and
3 services available under RCW 10.31.110 or other program or entity
4 responsible for receiving referrals in lieu of legal system
5 involvement, which may include, but are not limited to, arrest and
6 jail alternative programs established under RCW 36.28A.450, law
7 enforcement assisted diversion programs established under RCW
8 71.24.589, and the recovery navigator program established under RCW
9 71.24.115.

10 (3) (a) The possession, by a person (~~(twenty-one)~~) 21 years of age
11 or older, of useable cannabis, cannabis concentrates, or cannabis-
12 infused products in amounts that do not exceed those set forth in RCW
13 69.50.360(3) is not a violation of this section, this chapter, or any
14 other provision of Washington state law.

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

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

- 30 (i) One-half ounce of useable cannabis;
- 31 (ii) Eight ounces of cannabis-infused product in solid form;
- 32 (iii) (~~(Thirty-six)~~) 36 ounces of cannabis-infused product in
33 liquid form; or
- 34 (iv) Three and one-half grams of cannabis concentrates.

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

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

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

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

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

13 (7) For the purposes of this section, "public place" has the same
14 meaning as defined in RCW 66.04.010, but the exclusions in RCW
15 66.04.011 do not apply.

16 (8) For the purposes of this section, "use a controlled
17 substance" means to introduce the substance into the human body by
18 injection, inhalation, ingestion, or any other means.

19 **Sec. 3.** RCW 69.50.4014 and 2022 c 16 s 88 are each amended to
20 read as follows:

21 (1) Except as provided in RCW 69.50.401(2)(c) or as otherwise
22 authorized by this chapter, any person found guilty of knowing
23 possession of (~~(forty)~~) 40 grams or less of cannabis is guilty of a
24 misdemeanor. The prosecutor is encouraged to divert cases under this
25 section for assessment, treatment, or other services.

26 (2) In lieu of jail booking and referral to the prosecutor, law
27 enforcement is encouraged to offer a referral to assessment and
28 services available under RCW 10.31.110 or other program or entity
29 responsible for receiving referrals in lieu of legal system
30 involvement, which may include, but are not limited to, arrest and
31 jail alternative programs established under RCW 36.28A.450, law
32 enforcement assisted diversion programs established under RCW
33 71.24.589, and the recovery navigator program established under RCW
34 71.24.115.

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

37 (1) It shall be unlawful for any person to sell(~~(r)~~) or deliver
38 any legend drug, or knowingly possess any legend drug, or knowingly

1 use any legend drug in a public place, except upon the order or
2 prescription of a physician under chapter 18.71 RCW, an osteopathic
3 physician and surgeon under chapter 18.57 RCW, an optometrist
4 licensed under chapter 18.53 RCW who is certified by the optometry
5 board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a
6 podiatric physician and surgeon under chapter 18.22 RCW, a
7 veterinarian under chapter 18.92 RCW, a commissioned medical or
8 dental officer in the United States armed forces or public health
9 service in the discharge of his or her official duties, a duly
10 licensed physician or dentist employed by the veterans administration
11 in the discharge of his or her official duties, a registered nurse or
12 advanced registered nurse practitioner under chapter 18.79 RCW when
13 authorized by the nursing care quality assurance commission, a
14 pharmacist licensed under chapter 18.64 RCW to the extent permitted
15 by drug therapy guidelines or protocols established under RCW
16 18.64.011 and authorized by the commission and approved by a
17 practitioner authorized to prescribe drugs, a physician assistant
18 under chapter 18.71A RCW when authorized by the Washington medical
19 commission, or any of the following professionals in any province of
20 Canada that shares a common border with the state of Washington or in
21 any state of the United States: A physician licensed to practice
22 medicine and surgery or a physician licensed to practice osteopathic
23 medicine and surgery, a dentist licensed to practice dentistry, a
24 podiatric physician and surgeon licensed to practice podiatric
25 medicine and surgery, a licensed advanced registered nurse
26 practitioner, a licensed physician assistant, or a veterinarian
27 licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the
28 above provisions shall not apply to sale, delivery, or possession by
29 drug wholesalers or drug manufacturers, or their agents or employees,
30 or to any practitioner acting within the scope of his or her license,
31 or to a common or contract carrier or warehouse operator, or any
32 employee thereof, whose possession of any legend drug is in the usual
33 course of business or employment: PROVIDED FURTHER, That nothing in
34 this chapter or chapter 18.64 RCW shall prevent a family planning
35 clinic that is under contract with the health care authority from
36 selling, delivering, possessing, and dispensing commercially
37 prepackaged oral contraceptives prescribed by authorized, licensed
38 health care practitioners: PROVIDED FURTHER, That nothing in this
39 chapter prohibits possession or delivery of legend drugs by an

1 authorized collector or other person participating in the operation
2 of a drug take-back program authorized in chapter 69.48 RCW.

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

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

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

12 (d) No person may be charged with both knowing possession and
13 knowing use in a public place under this section relating to the same
14 course of conduct.

15 (e) In lieu of jail booking and referral to the prosecutor for a
16 violation of this section involving knowing possession, or knowing
17 use in a public place, law enforcement is encouraged to offer a
18 referral to assessment and services available under RCW 10.31.110 or
19 other program or entity responsible for receiving referrals in lieu
20 of legal system involvement, which may include, but are not limited
21 to, arrest and jail alternative programs established under RCW
22 36.28A.450, law enforcement assisted diversion programs established
23 under RCW 71.24.589, and the recovery navigator program established
24 under RCW 71.24.115.

25 (3) For the purposes of this section, "public place" has the same
26 meaning as defined in RCW 66.04.010, but the exclusions in RCW
27 66.04.011 do not apply.

28 (4) For the purposes of this section, "use any legend drug" means
29 to introduce the drug into the human body by injection, inhalation,
30 ingestion, or any other means.

31 **Sec. 5.** RCW 69.50.509 and 1987 c 202 s 228 are each amended to
32 read as follows:

33 If, upon the sworn complaint of any person, it shall be made to
34 appear to any judge of the superior court, district court, or
35 municipal court that there is probable cause to believe that any
36 controlled substance is being used, manufactured, sold, bartered,
37 exchanged, administered, dispensed, delivered, distributed, produced,
38 knowingly possessed, given away, furnished or otherwise disposed of
39 or kept in violation of the provisions of this chapter, such judge

1 shall, with or without the approval of the prosecuting attorney,
2 issue a warrant directed to any law enforcement officer of the state,
3 commanding him or her to search the premises designated and described
4 in such complaint and warrant, and to seize all controlled substances
5 there found, together with the vessels in which they are contained,
6 and all implements, furniture and fixtures used or kept for the
7 illegal manufacture, sale, barter, exchange, administering,
8 dispensing, delivering, distributing, producing, possessing, giving
9 away, furnishing or otherwise disposing of such controlled
10 substances, and to safely keep the same, and to make a return of said
11 warrant within three days, showing all acts and things done
12 thereunder, with a particular statement of all articles seized and
13 the name of the person or persons in whose possession the same were
14 found, if any, and if no person be found in the possession of said
15 articles, the returns shall so state. The provisions of RCW 10.31.030
16 as now or hereafter amended shall apply to actions taken pursuant to
17 this chapter.

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.43
19 RCW to read as follows:

20 Subject to the availability of funds appropriated for this
21 specific purpose, the Washington state patrol bureau of forensic
22 laboratory services shall aim to complete the necessary analysis for
23 any evidence submitted for a suspected violation of RCW 69.50.4011(1)
24 (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) within
25 45 days of receipt of the request for analysis.

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

29 **Part II - Relating to Drug Paraphernalia**

30 **Sec. 7.** RCW 69.50.4121 and 2022 c 16 s 92 are each amended to
31 read as follows:

32 (1) Every person who sells (~~or gives,~~) or permits to be sold
33 (~~or given~~) to any person any drug paraphernalia in any form commits
34 a class I civil infraction under chapter 7.80 RCW. For purposes of
35 this subsection, "drug paraphernalia" means all equipment, products,
36 and materials of any kind which are used, intended for use, or
37 designed for use in planting, propagating, cultivating, growing,

1 harvesting, manufacturing, compounding, converting, producing,
2 processing, preparing, (~~(testing, analyzing,)~~) packaging,
3 repackaging, storing, containing, concealing, injecting, ingesting,
4 inhaling, or otherwise introducing into the human body a controlled
5 substance other than cannabis. Drug paraphernalia includes, but is
6 not limited to objects used, intended for use, or designed for use in
7 ingesting, inhaling, or otherwise introducing cocaine into the human
8 body, such as:

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

12 (b) Water pipes;

13 (c) Carburetion tubes and devices;

14 (d) Smoking and carburetion masks;

15 (e) Miniature cocaine spoons and cocaine vials;

16 (f) Chamber pipes;

17 (g) Carburetor pipes;

18 (h) Electric pipes;

19 (i) Air-driven pipes; and

20 (j) Ice pipes or chillers.

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

24 (3) Nothing in subsection (1) of this section prohibits (~~(legal)~~)
25 distribution (~~(of injection)~~) or use of public health supplies
26 including, but not limited to, syringe equipment, smoking equipment,
27 or drug testing equipment, through public health ((and)) programs,
28 community-based HIV prevention programs, outreach, shelter, and
29 housing programs, and pharmacies. Public health and syringe service
30 program staff taking samples of substances and using drug testing
31 equipment for the purpose of analyzing the composition of the
32 substances or detecting the presence of certain substances are acting
33 legally and are exempt from arrest and prosecution under RCW
34 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b)
35 or (c).

36 NEW SECTION. Sec. 8. A new section is added to chapter 69.50
37 RCW to read as follows:

38 (1) The state of Washington hereby fully occupies and preempts
39 the entire field of drug paraphernalia regulation within the

1 boundaries of the state including regulation of the use, selling,
2 giving, delivery, and possession of drug paraphernalia, except as
3 provided in subsection (2) of this section. Cities, towns, and
4 counties or other municipalities may enact only those laws and
5 ordinances relating to drug paraphernalia that are specifically
6 authorized by state law and are consistent with this chapter. Such
7 local ordinances must have the same penalty as provided for by state
8 law. Local laws and ordinances that are inconsistent with, more
9 restrictive than, or exceed the requirements of state law may not be
10 enacted and are preempted and repealed, regardless of the nature of
11 the code, charter, or home rule status of such city, town, county, or
12 municipality.

13 (2) Nothing in this chapter shall be construed to prohibit cities
14 or counties from enacting laws or ordinances relating to the
15 establishment or regulation of harm reduction services concerning
16 drug paraphernalia.

17 **Part III - Providing Opportunities for Pretrial Diversion Pursuant to**
18 **RCW 71.24.115, 36.28A.450, and 71.24.589 and Vacating Convictions**

19 NEW SECTION. **Sec. 9.** A new section is added to chapter 69.50
20 RCW to read as follows:

21 (1) Nothing in this section prevents the defendant, with the
22 consent of the prosecuting attorney as required by RCW 2.30.030, from
23 seeking to resolve charges under RCW 69.50.4011(1) (b) or (c),
24 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) through available
25 therapeutic courts or other alternatives to prosecution including,
26 but not limited to, a stipulated order of continuance or deferred
27 prosecution. Nothing in this section prevents the defendant or the
28 prosecuting attorney from seeking or agreeing to, or the court from
29 ordering, any other resolution of charges or terms of supervision
30 that suit the circumstances of the defendant's situation and advance
31 stabilization, recovery, crime reduction, and justice.

32 (2) In any jurisdiction with a recovery navigator program
33 established under RCW 71.24.115, an arrest and jail alternative
34 program established under RCW 36.28A.450, or a law enforcement
35 assisted diversion program established under RCW 71.24.589, any
36 defendant charged with a violation of RCW 69.50.4011(1) (b) or (c),
37 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) may make a motion
38 to participate in pretrial diversion and agree to waive his or her

1 right to a speedy trial if the motion is granted, subject to the
2 following:

3 (a) In any case where the defendant is only charged with a
4 violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or
5 69.41.030(2) (b) or (c), and the defendant has not been convicted of
6 any offenses committed after the effective date of this section, the
7 court shall grant the motion, continue the hearing, and refer the
8 defendant to a recovery navigator program established under RCW
9 71.24.115, an arrest and jail alternative program established under
10 RCW 36.28A.450, or a law enforcement assisted diversion program
11 established under RCW 71.24.589.

12 (b) In any case where the defendant does not meet the criteria
13 described in (a) of this subsection, the court may grant the motion,
14 continue the hearing, and refer the defendant to a recovery navigator
15 program established under RCW 71.24.115, an arrest and jail
16 alternative program established under RCW 36.28A.450, or a law
17 enforcement assisted diversion program established under RCW
18 71.24.589.

19 (c) In all cases, the court may not grant the motion unless the
20 prosecuting attorney consents to the defendant's participation in
21 pretrial diversion. The prosecuting attorney is strongly encouraged
22 to agree to diversion in any case where the defendant is only charged
23 with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013,
24 69.50.4014, or 69.41.030(2) (b) or (c). The prosecuting attorney may
25 divert additional charges related to substance use disorder for
26 nonfelony offenses that are not crimes against persons.

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

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

31 (b) A general explanation of the roles and authority of the
32 probation department, the prosecuting attorney, the recovery
33 navigator program under RCW 71.24.115, arrest and jail alternative
34 program under RCW 36.28A.450, or law enforcement assisted diversion
35 program under RCW 71.24.589, and the court in the process;

36 (c) A clear statement that the court may grant pretrial diversion
37 with respect to any offense under RCW 69.50.4011(1) (b) or (c),
38 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) that is charged,
39 provided that the defendant pleads not guilty to the charge or
40 charges and waives his or her right to a speedy trial, and that upon

1 the defendant's successful completion of pretrial diversion, as
2 specified in subsection (11) of this section, and motion of the
3 defendant, prosecuting attorney, court, or probation department, the
4 court must dismiss the charge or charges against the defendant;

5 (d) A clear statement that if the defendant has not made
6 substantial progress with treatment or services provided that are
7 appropriate to the defendant's circumstances or, if applicable,
8 community service, the prosecuting attorney may make a motion to
9 terminate pretrial diversion and schedule further proceedings as
10 otherwise provided in this section;

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

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

21 (4) If the court grants the defendant's motion to participate in
22 pretrial diversion under this section, the recovery navigator program
23 established under RCW 71.24.115, the arrest and jail alternative
24 program established under RCW 36.28A.450, or the law enforcement
25 assisted diversion program established under RCW 71.24.589, shall
26 provide the court written confirmation of completion of the
27 assessment and a statement indicating the defendant's enrollment or
28 referral to any specific service or program. The confirmation and
29 statement of the recovery navigator program established under RCW
30 71.24.115, the arrest and jail alternative program established under
31 RCW 36.28A.450, or the law enforcement assisted diversion program
32 established under RCW 71.24.589 shall be filed under seal with the
33 court, and a copy shall be given to the prosecuting attorney,
34 defendant, and defendant's counsel. The confirmation and statement
35 are confidential and exempt from disclosure under chapter 42.56 RCW.
36 The court shall endeavor to avoid public discussion of the
37 circumstances, history, or diagnoses that could stigmatize the
38 defendant.

39 (5) Subject to the availability of funds appropriated for this
40 specific purpose, the assessment and recommended treatment or

1 services must be provided at no cost for defendants who have been
2 found to be indigent by the court.

3 (6) If the assessment conducted by the recovery navigator program
4 established under RCW 71.24.115, the arrest and jail alternative
5 program established under RCW 36.28A.450, or the law enforcement
6 assisted diversion program established under RCW 71.24.589 includes a
7 referral to any treatment or services, the recovery navigator program
8 established under RCW 71.24.115, the arrest and jail alternative
9 program established under RCW 36.28A.450, the law enforcement
10 assisted diversion program established under RCW 71.24.589, or
11 service provider shall provide the court with regular written status
12 updates on the defendant's progress on a schedule acceptable to the
13 court. The updates must be provided at least monthly and be filed
14 under seal with the court, with copies given to the prosecuting
15 attorney, defendant, and defendant's counsel. The updates and their
16 copies are confidential and exempt from disclosure under chapter
17 42.56 RCW. The court shall endeavor to avoid public discussion of the
18 circumstances, history, or diagnoses that could stigmatize the
19 defendant.

20 (7) If the assessment conducted by the recovery navigator program
21 established under RCW 71.24.115, the arrest and jail alternative
22 program established under RCW 36.28A.450, or the law enforcement
23 assisted diversion program established under RCW 71.24.589 does not
24 recommend any treatment or services, the defendant must instead
25 complete an amount of community service as determined by the court,
26 but not to exceed 120 hours of community service, in order to
27 complete pretrial diversion.

28 (8) Admissions made by the individual in the course of receiving
29 services from the recovery navigator program established under RCW
30 71.24.115, the arrest and jail alternative program established under
31 RCW 36.28A.450, or the law enforcement assisted diversion program
32 established under RCW 71.24.589 may not be used against the
33 individual in the prosecution's case in chief.

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

37 (10) If it appears to the prosecuting attorney that the defendant
38 is not substantially complying with the recommended treatment or
39 services as reflected by a written status update, the prosecuting
40 attorney may make a motion for termination from pretrial diversion.

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

3 (b) Before the hearing, the defendant and the defendant's counsel
4 shall be advised of the nature of the alleged noncompliance and
5 provided discovery of evidence supporting the allegation, including
6 names and contact information of witnesses.

7 (c) At the hearing, the court must consider the following
8 factors:

9 (i) The nature of the alleged noncompliance; and

10 (ii) Any other mitigating circumstances, including, but not
11 limited to, the defendant's efforts and due diligence, the
12 availability of services in the geographic area, and the treatment
13 and services offered to the defendant.

14 (d) If the court finds the defendant is not substantially
15 complying with the recommended treatment or services and thereafter
16 terminates pretrial diversion, it shall state the grounds for its
17 decision succinctly in the record and provide the prosecuting
18 attorney, the defendant, and the defendant's counsel with a written
19 order.

20 (11) If the defendant successfully completes pretrial diversion,
21 including in one of the following ways, the charge or charges under
22 RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2)
23 (b) or (c) must be dismissed:

24 (a) If the assessment prepared by the recovery navigator program,
25 arrest and jail alternative program, or law enforcement assisted
26 diversion program included a recommendation for treatment or
27 services, the defendant successfully completes pretrial diversion
28 either by having 12 months of substantial compliance with the
29 assessment and recommended treatment or services and progress toward
30 recovery goals as reflected by the written status updates or by
31 successfully completing the recommended treatment or services,
32 whichever occurs first; or

33 (b) If the assessment prepared by the recovery navigator program,
34 arrest and jail alternative program, or law enforcement assisted
35 diversion program did not include a recommendation for treatment or
36 services, the defendant successfully completes pretrial diversion by
37 completing the community service described in subsection (7) of this
38 section and submitting proof of completion to the court.

39 (12) Beginning January 1, 2025, the recovery navigator programs
40 established under RCW 71.24.115, arrest and jail alternative programs

1 established under RCW 36.28A.450, and law enforcement assisted
2 diversion programs established under RCW 71.24.589 shall input data
3 and information in the data integration platform under section 22 of
4 this act for each case where the defendant participates in pretrial
5 diversion under this section, including but not limited to the
6 following:

7 (a) Whether the pretrial diversion was terminated or was
8 successfully completed and resulted in a dismissal;

9 (b) The race, ethnicity, gender, gender expression or identity,
10 disability status, and age of the defendant; and

11 (c) Any other appropriate data and information as determined by
12 the health care authority.

13 NEW SECTION. **Sec. 10.** A new section is added to chapter 69.50
14 RCW to read as follows:

15 When sentencing an individual for a violation of 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 is encouraged to utilize any other resolution of
18 the charges or terms of supervision that suit the circumstances of
19 the defendant's situation and advance stabilization, recovery, crime
20 reduction, and justice.

21 **Sec. 11.** RCW 9.96.060 and 2022 c 16 s 7 are each amended to read
22 as follows:

23 (1) When vacating a conviction under this section, the court
24 effectuates the vacation by: (a)(i) Permitting the applicant to
25 withdraw the applicant's plea of guilty and to enter a plea of not
26 guilty; or (ii) if the applicant has been convicted after a plea of
27 not guilty, the court setting aside the verdict of guilty; and (b)
28 the court dismissing the information, indictment, complaint, or
29 citation against the applicant and vacating the judgment and
30 sentence.

31 (2) Every person convicted of a misdemeanor or gross misdemeanor
32 offense may apply to the sentencing court for a vacation of the
33 applicant's record of conviction for the offense. If the court finds
34 the applicant meets the requirements of this subsection, the court
35 may in its discretion vacate the record of conviction. Except as
36 provided in subsections (3), (4), ~~((and))~~ (5), and (6) of this
37 section, an applicant may not have the record of conviction for a

1 misdemeanor or gross misdemeanor offense vacated if any one of the
2 following is present:

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

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

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

10 (d) The offense was a violation of RCW 46.61.502 (driving while
11 under the influence), 46.61.504 (actual physical control while under
12 the influence), 9.91.020 (operating a railroad, etc. while
13 intoxicated), or the offense is considered a "prior offense" under
14 RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug
15 violation within ten years of the date of arrest for the prior
16 offense or less than ten years has elapsed since the date of the
17 arrest for the prior offense;

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

23 (f) The applicant was convicted of a misdemeanor or gross
24 misdemeanor offense as defined in RCW 10.99.020, or the court
25 determines after a review of the court file that the offense was
26 committed by one family or household member against another or by one
27 intimate partner against another, or the court, after considering the
28 damage to person or property that resulted in the conviction, any
29 prior convictions for crimes defined in RCW 10.99.020, or for
30 comparable offenses in another state or in federal court, and the
31 totality of the records under review by the court regarding the
32 conviction being considered for vacation, determines that the offense
33 involved domestic violence, and any one of the following factors
34 exist:

35 (i) The applicant has not provided written notification of the
36 vacation petition to the prosecuting attorney's office that
37 prosecuted the offense for which vacation is sought, or has not
38 provided that notification to the court;

39 (ii) The applicant has two or more domestic violence convictions
40 stemming from different incidents. For purposes of this subsection,

1 however, if the current application is for more than one conviction
2 that arose out of a single incident, none of those convictions counts
3 as a previous conviction;

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

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

12 (g) For any offense other than those described in (f) of this
13 subsection, less than three years have passed since the person
14 completed the terms of the sentence, including any financial
15 obligations;

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

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

25 (3) If the applicant is a victim of sex trafficking,
26 prostitution, or commercial sexual abuse of a minor; sexual assault;
27 or domestic violence as defined in RCW 9.94A.030, or the prosecutor
28 applies on behalf of the state, the sentencing court may vacate the
29 record of conviction if the application satisfies the requirements of
30 RCW 9.96.080. When preparing or filing the petition, the prosecutor
31 is not deemed to be providing legal advice or legal assistance on
32 behalf of the victim, but is fulfilling an administrative function on
33 behalf of the state in order to further their responsibility to seek
34 to reform and improve the administration of criminal justice. A
35 record of conviction vacated using the process in RCW 9.96.080 is
36 subject to subsections (~~((6) and~~) (7) and (8) of this section.

37 (4) Every person convicted prior to January 1, 1975, of violating
38 any statute or rule regarding the regulation of fishing activities,
39 including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070,
40 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240

1 who claimed to be exercising a treaty Indian fishing right, may apply
2 to the sentencing court for vacation of the applicant's record of the
3 misdemeanor, gross misdemeanor, or felony conviction for the offense.
4 If the person is deceased, a member of the person's family or an
5 official representative of the tribe of which the person was a member
6 may apply to the court on behalf of the deceased person.
7 Notwithstanding the requirements of RCW 9.94A.640, the court shall
8 vacate the record of conviction if:

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

11 (b) The state has been enjoined from taking enforcement action of
12 the statute or rule to the extent that it interferes with a treaty
13 Indian fishing right as determined under *United States v. Washington*,
14 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp.
15 899 (D. Oregon 1969), and any posttrial orders of those courts, or
16 any other state supreme court or federal court decision.

17 (5) Every person convicted of a misdemeanor cannabis offense, who
18 was (~~twenty-one~~) 21 years of age or older at the time of the
19 offense, may apply to the sentencing court for a vacation of the
20 applicant's record of conviction for the offense. A misdemeanor
21 cannabis offense includes, but is not limited to: Any offense under
22 RCW 69.50.4014, from July 1, 2004, onward, and its predecessor
23 statutes, including RCW 69.50.401(e), from March 21, 1979, to July 1,
24 2004, and RCW 69.50.401(d), from May 21, 1971, to March 21, 1979, and
25 any offense under an equivalent municipal ordinance. If an applicant
26 qualifies under this subsection, the court shall vacate the record of
27 conviction.

28 (6) If a person convicted of violating RCW 69.50.4011(1) (b) or
29 (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) completes a
30 substance use disorder program and files proof of completion with the
31 court, or obtains an assessment from a recovery navigator program
32 established under RCW 71.24.115, an arrest and jail alternative
33 program established under RCW 36.28A.450, or a law enforcement
34 assisted diversion program established under RCW 71.24.589, and has
35 six months of substantial compliance with recommended treatment or
36 services and progress toward recovery goals as reflected by a written
37 status update, upon verification the court must vacate the conviction
38 or convictions.

39 (7) A person who is a family member of a homicide victim may
40 apply to the sentencing court on the behalf of the victim for

1 vacation of the victim's record of conviction for prostitution under
2 RCW 9A.88.030. If an applicant qualifies under this subsection, the
3 court shall vacate the victim's record of conviction.

4 ~~((7))~~ (8) (a) Except as provided in (c) of this subsection, once
5 the court vacates a record of conviction under this section, the
6 person shall be released from all penalties and disabilities
7 resulting from the offense and the fact that the person has been
8 convicted of the offense shall not be included in the person's
9 criminal history for purposes of determining a sentence in any
10 subsequent conviction. For all purposes, including responding to
11 questions on employment or housing applications, a person whose
12 conviction has been vacated under this section may state that he or
13 she has never been convicted of that crime. However, nothing in this
14 section affects the requirements for restoring a right to possess a
15 firearm under RCW 9.41.040. Except as provided in (b) of this
16 subsection, nothing in this section affects or prevents the use of an
17 offender's prior conviction in a later criminal prosecution.

18 (b) When a court vacates a record of domestic violence as defined
19 in RCW 10.99.020 under this section, the state may not use the
20 vacated conviction in a later criminal prosecution unless the
21 conviction was for: (i) Violating the provisions of a restraining
22 order, no-contact order, or protection order restraining or enjoining
23 the person or restraining the person from going on to the grounds of
24 or entering a residence, workplace, school, or day care, or
25 prohibiting the person from knowingly coming within, or knowingly
26 remaining within, a specified distance of a location, a protected
27 party's person, or a protected party's vehicle (RCW 10.99.040,
28 10.99.050, 26.09.300, 26.26B.050, 26.44.063, 26.44.150, or 26.52.070,
29 or any of the former RCW 26.50.060, 26.50.070, 26.50.130, and
30 74.34.145); (ii) stalking (RCW 9A.46.110); or (iii) a domestic
31 violence protection order or vulnerable adult protection order
32 entered under chapter 7.105 RCW. A vacated conviction under this
33 section is not considered a conviction of such an offense for the
34 purposes of 27 C.F.R. 478.11.

35 (c) A conviction vacated on or after July 28, 2019, qualifies as
36 a prior conviction for the purpose of charging a present recidivist
37 offense as defined in RCW 9.94A.030 occurring on or after July 28,
38 2019.

39 ~~((8))~~ (9) The clerk of the court in which the vacation order is
40 entered shall immediately transmit the order vacating the conviction

1 to the Washington state patrol identification section and to the
2 local police agency, if any, which holds criminal history information
3 for the person who is the subject of the conviction. The Washington
4 state patrol and any such local police agency shall immediately
5 update their records to reflect the vacation of the conviction, and
6 shall transmit the order vacating the conviction to the federal
7 bureau of investigation. A conviction that has been vacated under
8 this section may not be disseminated or disclosed by the state patrol
9 or local law enforcement agency to any person, except other criminal
10 justice enforcement agencies.

11 ~~((9))~~ (10) For the purposes of this section, "cannabis" has the
12 meaning provided in RCW 69.50.101.

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

14 **Sec. 12.** RCW 36.70A.200 and 2021 c 265 s 2 are each amended to
15 read as follows:

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

31 (b) Unless a facility is expressly listed in (a) of this
32 subsection, essential public facilities do not include facilities
33 that are operated by a private entity in which persons are detained
34 in custody under process of law pending the outcome of legal
35 proceedings but are not used for punishment, correction, counseling,
36 or rehabilitation following the conviction of a criminal offense.
37 Facilities included under this subsection (1)(b) shall not include

1 facilities detaining persons under RCW 71.09.020 (~~((6) or (15))~~) (7)
2 or (16) or chapter 10.77 or 71.05 RCW.

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

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

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

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

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

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

34 (6) No person may bring a cause of action for civil damages based
35 on the good faith actions of any county or city to provide for the
36 siting of secure community transition facilities in accordance with
37 this section and with the requirements of chapter 12, Laws of 2001
38 2nd sp. sess. For purposes of this subsection, "person" includes, but
39 is not limited to, any individual, agency as defined in RCW

1 42.17A.005, corporation, partnership, association, and limited
2 liability entity.

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

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

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

9 (b) A consideration for grants or loans provided under RCW
10 43.17.250(3); or

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

13 **Sec. 13.** RCW 71.24.589 and 2019 c 314 s 29 are each amended to
14 read as follows:

15 (1) Subject to funds appropriated by the legislature, the
16 authority shall (~~implement a pilot project~~) administer a grant
17 program for law enforcement assisted diversion which shall adhere to
18 law enforcement assisted diversion core principles recognized by the
19 law enforcement assisted diversion national support bureau, the
20 efficacy of which have been demonstrated in peer-reviewed research
21 studies.

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

33 (3) The (~~pilot projects~~) program must provide for securing
34 comprehensive technical assistance from law enforcement assisted
35 diversion implementation experts to develop and implement a law
36 enforcement assisted diversion program (~~in the pilot project's~~
37 ~~geographic areas~~) in a way that ensures fidelity to the research-
38 based law enforcement assisted diversion model. Sufficient funds must

1 be allocated from grant program funds to secure technical assistance
2 for the authority and for the implementing jurisdictions.

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

5 (a) Long-term case management for individuals with substance use
6 disorders;

7 (b) Facilitation and coordination with community resources
8 focusing on overdose prevention;

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

11 (d) Facilitation and coordination with community resources
12 providing physical and behavioral health services;

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

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

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

19 (h) Prosecutorial support for diversion services.

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

30 **Sec. 14.** RCW 71.24.590 and 2019 c 314 s 30 are each amended to
31 read as follows:

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

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

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

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

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

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

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

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

30 (h) ~~((Hold one public hearing in the community in which the~~
31 ~~facility is proposed to be located. The hearing shall be held at a~~
32 ~~time and location that are most likely to permit the largest number~~
33 ~~of interested persons to attend and present testimony. The department~~
34 ~~shall notify all appropriate media outlets of the time, date, and~~
35 ~~location of the hearing at least three weeks in advance of the~~
36 ~~hearing)) Provide public notice to all appropriate media outlets in
37 the community in which the facility is proposed to be located that
38 states the applicant is proposing a facility in that community.~~

39 (2) ((A)) No city or county legislative authority may impose a
40 maximum capacity for ((a)) an opioid treatment program ~~((of not less~~

1 ~~than three hundred fifty participants if necessary to address~~
2 ~~specific local conditions cited by the county)~~.

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

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

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

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

24 (7) A mobile or fixed-site medication unit may be established as
25 part of a licensed opioid treatment program.

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

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

32 (b) Provides a comprehensive range of medical and rehabilitative
33 services.

34 NEW SECTION. Sec. 15. A new section is added to chapter 43.330
35 RCW to read as follows:

36 (1) Subject to funds appropriated for this specific purpose, a
37 program is established in the department to fund the construction
38 costs necessary to start up substance use disorder treatment and

1 services programs and recovery housing in regions of the state that
2 currently lack access to such programs.

3 (2) This funding must be used to increase the number of substance
4 use disorder treatment and services programs and recovery housing in
5 underserved areas such as central and eastern Washington and rural
6 areas.

7 NEW SECTION. **Sec. 16.** RCW 10.31.115 (Drug possession—Referral
8 to assessment and services) and 2021 c 311 s 13 are each repealed.

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

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

12 Subject to the availability of funds appropriated for this
13 specific purpose, the authority shall:

14 (1) Make sufficient funding available to support establishment of
15 an adequate and equitable stock of recovery residences in each region
16 of the state;

17 (2) Establish a voucher program to allow accredited recovery
18 housing operators to hold bed space for individuals who are waiting
19 for treatment;

20 (3) Conduct outreach to underserved and rural areas to support
21 the development of recovery housing, including adequate resources for
22 women, LGBTQIA+ communities, Black, indigenous, and other people of
23 color communities, immigrant communities, and youth; and

24 (4) Develop a training for housing providers by January 1, 2024,
25 to assist them with providing appropriate service to LGBTQIA+
26 communities, Black, indigenous, and other people of color
27 communities, and immigrant communities, including consideration of
28 topics like harassment, communication, antiracism, diversity, and
29 gender affirming behavior, and ensure applicants for grants or loans
30 related to recovery residences receive access to the training.

31 **Sec. 18.** RCW 84.36.043 and 1998 c 174 s 1 are each amended to
32 read as follows:

33 (1) The real and personal property used by a nonprofit
34 organization in providing emergency or transitional housing for low-
35 income homeless persons as defined in RCW 35.21.685 or 36.32.415 or

1 victims of domestic violence who are homeless for personal safety
2 reasons is exempt from taxation if:

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

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

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

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

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

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

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

18 (3) As used in this section:

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

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

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

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

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

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

35 NEW SECTION. Sec. 19. (1) This section is the tax preference
36 performance statement for the tax preference contained in section 18,
37 chapter . . ., Laws of 2023 [sp. sess.] (section 18 of this act).
38 This performance statement is only intended to be used for subsequent
39 evaluation of the tax preference. It is not intended to create a

1 private right of action by any party or to be used to determine
2 eligibility for preferential tax treatment.

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

6 (3) By exempting property used by nonprofit organizations
7 maintaining approved recovery residences, it is the legislature's
8 specific public policy objective to maximize funding for recovery
9 residences to the extent possible, thereby increasing availability of
10 such residences.

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

15 (a) Annual changes in the total number of parcels qualifying for
16 the exemption under section 18 of this act;

17 (b) The amount of annual property tax relief resulting from the
18 tax exemption under section 18 of this act;

19 (c) The average annual number of people housed at recovery
20 residences located on property qualifying for the exemption under
21 section 18 of this act;

22 (d) The annualized amount charged for housing at recovery
23 residences located on property qualifying for the exemption under
24 section 18 of this act and the annualized estimated increase in the
25 charge for housing if the properties had not been eligible for the
26 exemption; and

27 (e) The annual amount of expenditures by nonprofits to maintain
28 recovery residences located on property qualifying for the exemption
29 under section 18 of this act.

30 (5) The legislature intends to extend the expiration date of the
31 property tax exemption under section 18 of this act if the review by
32 the joint legislative audit and review committee finds that:

33 (a) The number of properties qualifying for the exemption under
34 section 18 of this act has increased;

35 (b) The number of individuals using recovery housing located on
36 property qualifying for the exemption under section 18 of this act
37 has increased; and

38 (c) The amount charged for recovery housing is reasonably
39 consistent with the actual cost of operating and maintaining the
40 housing.

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

4 (a) Initial applications for the tax exemption under section 18
5 of this act as approved by the department of revenue under RCW
6 84.36.815;

7 (b) Annual financial statements prepared by nonprofit entities
8 claiming the tax exemption under section 18 of this act;

9 (c) Filings with the federal government to maintain federal tax
10 exempt status by nonprofit organizations claiming the tax exemption
11 under section 18 of this act; and

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

14 **Part VI – Training for Parents of Children with Substance Use Disorder**
15 **and Caseworkers Within the Department of Children, Youth, and**
16 **Families**

17 NEW SECTION. **Sec. 20.** A new section is added to chapter 71.24
18 RCW to read as follows:

19 (1) The authority, in consultation with the department of
20 children, youth, and families, shall develop a training for parents
21 of adolescents and transition age youth with substance use disorders
22 by June 30, 2024, which training must build on and be consistent and
23 compatible with existing training developed by the authority for
24 families impacted by substance use disorder, and addressing the
25 following:

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

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

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

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

35 (e) Suicide prevention.

36 (2) The authority and the department of children, youth, and
37 families shall make this training publicly available, and the
38 department of children, youth, and families must promote the training

1 to licensed foster parents and caregivers, including any tribally
2 licensed foster parents and tribal caregivers.

3 NEW SECTION. **Sec. 21.** A new section is added to chapter 43.216
4 RCW to read as follows:

5 The department shall provide opioid overdose reversal medication
6 and training in the use of such medication to all department staff
7 whose job duties require in-person service or case management for
8 child welfare or juvenile rehabilitation clients.

9 **Part VII – Recovery Navigator Programs**

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

12 (1) The authority must develop and implement a data integration
13 platform by June 30, 2025, to support recovery navigator programs,
14 law enforcement assisted diversion programs, arrest and jail
15 alternative programs, and similar diversion efforts. The data
16 integration platform shall:

17 (a) Serve as a statewide common database available for tracking
18 diversion efforts across the state;

19 (b) Serve as a data collection and management tool for
20 practitioners, allowing practitioners to input data and information
21 relating to the utilization and outcomes of pretrial diversions,
22 including whether such diversions were terminated, were successfully
23 completed and resulted in dismissal, or are still ongoing;

24 (c) Assist in standardizing definitions and practices; and

25 (d) Track pretrial diversion participants by race, ethnicity,
26 gender, gender expression or identity, disability status, and age.

27 (2) If possible, the authority must leverage and interact with
28 existing platforms already in use in efforts funded by the authority.
29 The authority must establish a quality assurance process for
30 behavioral health administrative services organizations and employ
31 data validation for fields in the data collection workbook. The
32 authority must engage and consult with the law enforcement assisted
33 diversion national support bureau on data integration approaches,
34 platforms, quality assurance protocols, and validation practices.

35 (3) Information submitted to the data integration platform is
36 exempt from public disclosure requirements under chapter 42.56 RCW.

1 **Sec. 23.** RCW 42.56.360 and 2020 c 323 s 2 are each amended to
2 read as follows:

3 (1) The following health care information is exempt from
4 disclosure under this chapter:

5 (a) Information obtained by the pharmacy quality assurance
6 commission as provided in RCW 69.45.090;

7 (b) Information obtained by the pharmacy quality assurance
8 commission or the department of health and its representatives as
9 provided in RCW 69.41.044, 69.41.280, and 18.64.420;

10 (c) Information and documents created specifically for, and
11 collected and maintained by a quality improvement committee under RCW
12 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee
13 under RCW 4.24.250, or by a quality assurance committee pursuant to
14 RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW
15 43.70.056, for reporting of health care-associated infections under
16 RCW 43.70.056, a notification of an incident under RCW 70.56.040(5),
17 and reports regarding adverse events under RCW 70.56.020(2)(b),
18 regardless of which agency is in possession of the information and
19 documents;

20 (d)(i) Proprietary financial and commercial information that the
21 submitting entity, with review by the department of health,
22 specifically identifies at the time it is submitted and that is
23 provided to or obtained by the department of health in connection
24 with an application for, or the supervision of, an antitrust
25 exemption sought by the submitting entity under RCW 43.72.310;

26 (ii) If a request for such information is received, the
27 submitting entity must be notified of the request. Within ten
28 business days of receipt of the notice, the submitting entity shall
29 provide a written statement of the continuing need for
30 confidentiality, which shall be provided to the requester. Upon
31 receipt of such notice, the department of health shall continue to
32 treat information designated under this subsection (1)(d) as exempt
33 from disclosure;

34 (iii) If the requester initiates an action to compel disclosure
35 under this chapter, the submitting entity must be joined as a party
36 to demonstrate the continuing need for confidentiality;

37 (e) Records of the entity obtained in an action under RCW
38 18.71.300 through 18.71.340;

39 (f) Complaints filed under chapter 18.130 RCW after July 27,
40 1997, to the extent provided in RCW 18.130.095(1);

1 (g) Information obtained by the department of health under
2 chapter 70.225 RCW;

3 (h) Information collected by the department of health under
4 chapter 70.245 RCW except as provided in RCW 70.245.150;

5 (i) Cardiac and stroke system performance data submitted to
6 national, state, or local data collection systems under RCW
7 70.168.150(2)(b);

8 (j) All documents, including completed forms, received pursuant
9 to a wellness program under RCW 41.04.362, but not statistical
10 reports that do not identify an individual;

11 (k) Data and information exempt from disclosure under RCW
12 43.371.040; (~~and~~)

13 (l) Medical information contained in files and records of members
14 of retirement plans administered by the department of retirement
15 systems or the law enforcement officers' and firefighters' plan 2
16 retirement board, as provided to the department of retirement systems
17 under RCW 41.04.830; and

18 (m) Data submitted to the data integration platform under section
19 22 of this act.

20 (2) Chapter 70.02 RCW applies to public inspection and copying of
21 health care information of patients.

22 (3)(a) Documents related to infant mortality reviews conducted
23 pursuant to RCW 70.05.170 are exempt from disclosure as provided for
24 in RCW 70.05.170(3).

25 (b)(i) If an agency provides copies of public records to another
26 agency that are exempt from public disclosure under this subsection
27 (3), those records remain exempt to the same extent the records were
28 exempt in the possession of the originating entity.

29 (ii) For notice purposes only, agencies providing exempt records
30 under this subsection (3) to other agencies may mark any exempt
31 records as "exempt" so that the receiving agency is aware of the
32 exemption, however whether or not a record is marked exempt does not
33 affect whether the record is actually exempt from disclosure.

34 (4) Information and documents related to maternal mortality
35 reviews conducted pursuant to RCW 70.54.450 are confidential and
36 exempt from public inspection and copying.

37 NEW SECTION. Sec. 24. A new section is added to chapter 71.24
38 RCW to read as follows:

1 (1) The authority shall contract with the Washington state
2 institute for public policy to conduct a study of the long-term
3 effectiveness of the recovery navigator programs under RCW 71.24.115
4 and law enforcement assisted diversion programs under RCW 71.24.589
5 implemented in Washington state, with reports due by June 30, 2028,
6 June 30, 2033, and June 30, 2038, and an assessment as described
7 under subsection (2) of this section. The Washington state institute
8 for public policy shall collaborate with the authority and the
9 substance use recovery services advisory committee under RCW
10 71.24.546 on the topic of data collection and to determine the
11 parameters of the report, which shall include:

12 (a) Recidivism rates for recovery navigator and law enforcement
13 assisted diversion program participants, including a comparison
14 between individuals who did and did not use the pretrial diversion
15 program under section 9 of this act, and outcomes for these
16 individuals;

17 (b) Trends or disparities in utilization of the recovery
18 navigator and LEAD programs and outcomes based on race, ethnicity,
19 gender, gender expression or identity, disability status, age, and
20 other appropriate characteristics; and

21 (c) Recommendations, if any, for modification and improvement of
22 the recovery navigator program or law enforcement assisted diversion
23 programs.

24 (2)(a) The Washington state institute for public policy shall, in
25 consultation with the authority and other key stakeholders, conduct a
26 descriptive assessment of the current status of statewide recovery
27 navigator programs and the degree to which the implementation of
28 these programs reflects fidelity to the core principles of the law
29 enforcement assisted diversion program as established by the law
30 enforcement assisted diversion national support bureau in its toolkit
31 as it existed on July 1, 2023, which shall include:

32 (i) The results of the law enforcement assisted diversion
33 standards fidelity index analysis, conducted by an independent
34 research scientist with expertise in law enforcement assisted
35 diversion evaluation, including findings with respect to each
36 standard assessed, for each recovery navigator program, in each
37 behavioral health administrative services organization region;

38 (ii) Reports on utilization of technical support from the law
39 enforcement assisted diversion national support bureau by recovery

1 navigator program contractors, the authority, and behavioral health
2 administrative services organizations; and

3 (iii) Barriers to achieving fidelity to core principles.

4 (b) The report shall also describe law enforcement assisted
5 diversion programs in Washington state that are not affiliated with
6 recovery navigator programs.

7 (c) The report may include recommendations for changes to
8 recovery navigator programs reported by recovery navigator program
9 administrators, stakeholders, or participants.

10 (d) The authority, behavioral health administrative services
11 organizations, and other recovery navigator program administrators
12 shall cooperate with the institute in making this assessment.

13 (e) The institute shall submit this assessment to the governor
14 and relevant committees of the legislature by June 30, 2024.

15 (3) The authority shall cooperate with the Washington state
16 institute for public policy to provide data for the assessment and
17 reports under this section.

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

24 **Sec. 25.** RCW 71.24.115 and 2021 c 311 s 2 are each amended to
25 read as follows:

26 (1) Each behavioral health administrative services organization
27 shall establish ((a)) recovery navigator ((program)) programs with
28 the goal of providing law enforcement and other criminal legal system
29 personnel with a credible alternative to further legal system
30 involvement for criminal activity that stems from unmet behavioral
31 health needs or poverty. The programs shall work to improve community
32 health and safety by reducing individuals' involvement with the
33 criminal legal system through the use of specific human services
34 tools and in coordination with community input. Each program must
35 include a dedicated project manager and be governed by a policy
36 coordinating group comprised, in alignment with the core principles,
37 of local executive and legislative officials, public safety agencies,
38 including police and prosecutors, and civil rights, public defense,
39 and human services organizations.

1 (2) The recovery navigator programs shall be organized on a scale
2 that permits meaningful engagement, collaboration, and coordination
3 with local law enforcement and municipal agencies through the policy
4 coordinating groups. The ~~((program))~~ programs shall provide
5 community-based outreach, intake, assessment, and connection to
6 services and, as appropriate, long-term intensive case management and
7 recovery coaching services, to youth and adults with substance use
8 disorder, including for persons with co-occurring substance use
9 disorders and mental health conditions, who are referred to the
10 program from diverse sources and shall facilitate and coordinate
11 connections to a broad range of community resources for youth and
12 adults with substance use disorder, including treatment and recovery
13 support services. Recovery navigator programs must serve and
14 prioritize individuals who are actually or potentially exposed to the
15 criminal legal system with respect to unlawful behavior connected to
16 substance use or other behavioral health issues.

17 ~~((2—The))~~ (3) By June 30, 2024, the authority shall
18 ~~((establish))~~ revise its uniform program standards for behavioral
19 health administrative services organizations to follow in the design
20 of their recovery navigator programs to achieve fidelity with the
21 core principles. The uniform program standards must be modeled upon
22 the components of the law enforcement assisted diversion program and
23 address project management, field engagement, biopsychosocial
24 assessment, intensive case management and care coordination,
25 stabilization housing when available and appropriate, and, as
26 necessary, legal system coordination for participants' legal cases
27 that may precede or follow referral to the program. The uniform
28 program standards must incorporate the law enforcement assisted
29 diversion framework for diversion at multiple points of engagement
30 with the criminal legal system, including prearrest, prebooking,
31 prefiling, and for ongoing case conferencing with law enforcement,
32 prosecutors, community stakeholders, and program case managers. The
33 authority must adopt the uniform program standards from the
34 components of the law enforcement assisted diversion program to
35 accommodate an expanded population of persons with substance use
36 disorders, including persons with co-occurring substance use
37 disorders and mental health conditions, ~~((and allow))~~ provide for
38 referrals from a broad range of sources, and require prioritization
39 of those who are or likely will be exposed to the criminal legal
40 system related to their behavioral health challenges. In addition to

1 accepting referrals from law enforcement and courts of limited
2 jurisdiction, the uniform program standards must provide guidance for
3 accepting referrals on behalf of persons with substance use
4 disorders, including persons with co-occurring substance use
5 disorders and mental health conditions, from various sources
6 including, but not limited to, self-referral, family members of the
7 individual, emergency department personnel, persons engaged with
8 serving homeless persons, including those living unsheltered or in
9 encampments, fire department personnel, emergency medical service
10 personnel, community-based organizations, members of the business
11 community, harm reduction program personnel, faith-based organization
12 staff, and other sources within the criminal legal system, (~~as~~
13 ~~outlined~~) so that individuals are engaged as early as possible
14 within the sequential intercept model. In developing response time
15 requirements within the statewide program standards, the authority
16 shall require, subject to the availability of amounts appropriated
17 for this specific purpose, that responses to referrals from law
18 enforcement occur immediately for in-custody referrals and shall
19 strive for rapid response times to other appropriate settings such as
20 emergency departments and courts of limited jurisdiction.

21 (~~(3)~~) (4) Subject to the availability of amounts appropriated
22 for this specific purpose, the authority shall provide funding to
23 each behavioral health administrative services organization for the
24 (~~development of its~~) continuation of and, as required by this
25 section, the revisions to and reorganization of the recovery
26 navigator (~~program~~) programs they fund. Before receiving funding
27 for implementation and ongoing administration, each behavioral health
28 administrative services organization must submit a program plan that
29 demonstrates the ability to fully comply with statewide program
30 standards. The authority shall establish a schedule for the regular
31 review of recovery navigator programs funded by behavioral health
32 administrative services (~~organizations' programs~~) organizations.
33 The authority shall arrange for technical assistance to be provided
34 by the LEAD national support bureau to all behavioral health
35 administrative services organizations, the authority, contracted
36 providers, and independent stakeholders and partners, such as
37 prosecuting attorneys and law enforcement.

38 (~~(4)~~) (5) Each behavioral health administrative services
39 organization must have a substance use disorder regional
40 administrator for its recovery navigator program. The regional

1 administrator shall be responsible for assuring compliance with
2 program standards, including staffing standards. Each recovery
3 navigator program must maintain a sufficient number of appropriately
4 trained personnel for providing intake and referral services,
5 conducting comprehensive biopsychosocial assessments, providing
6 intensive case management services, and making warm handoffs to
7 treatment and recovery support services along the continuum of care.
8 Program staff must include people with lived experience with
9 substance use disorder to the extent possible. The substance use
10 disorder regional administrator must assure that staff who are
11 conducting intake and referral services and field assessments are
12 paid a livable and competitive wage and have appropriate initial
13 training and receive continuing education.

14 ~~((+5))~~ (6) Each recovery navigator program must submit quarterly
15 reports to the authority with information identified by the authority
16 and the substance use recovery services advisory committee. The
17 reports must be provided to the substance use recovery services
18 advisory committee for discussion at meetings following the
19 submission of the reports.

20 (7) No civil liability may be imposed by any court on the state
21 or its officers or employees, an appointed or elected official,
22 public employee, public agency as defined in RCW 4.24.470,
23 combination of units of government and its employees as provided in
24 RCW 36.28A.010, nonprofit community-based organization, tribal
25 government entity, tribal organization, or urban Indian organization,
26 based on the administration of a recovery navigator program except
27 upon proof of bad faith or gross negligence.

28 (8) For the purposes of this section, the term "core principles"
29 means the core principles of a law enforcement assisted diversion
30 program, as established by the law enforcement assisted diversion
31 national support bureau in its toolkit, as it existed on July 1,
32 2023.

33 **Part VIII - Establishing a Pilot Program for Health Engagement Hubs**

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

36 (1)(a) The authority shall implement a pilot program for health
37 engagement hubs by August 1, 2024. The pilot program will test the
38 functionality and operability of health engagement hubs, including

1 whether and how to incorporate and build on existing medical, harm
2 reduction, treatment, and social services in order to create an all-
3 in-one location where people who use drugs can access such services.

4 (b) Subject to amounts appropriated, the authority shall
5 establish pilot programs on at least two sites, with one site located
6 in an urban area and one located in a rural area.

7 (c) The authority shall report on the pilot program results,
8 including recommendations for expansion, and rules and payment
9 structures, to the legislature no later than August 1, 2026.

10 (2) The authority shall develop payment structures for health
11 engagement hubs by June 30, 2024. Subject to the availability of
12 funds appropriated for this purpose, and to the extent allowed under
13 federal law, the authority shall direct medicaid managed care
14 organizations to adopt a value-based bundled payment methodology in
15 contracts with health engagement hubs and other opioid treatment
16 providers. The authority shall not implement this requirement in
17 managed care contracts unless expressly authorized by the
18 legislature.

19 (3) A health engagement hub is intended to:

20 (a) Serve as an all-in-one location where people 18 years of age
21 or older who use drugs can access a range of medical, harm reduction,
22 treatment, and social services;

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

31 (c) Provide referrals or access to methadone and other
32 medications for opioid use disorder;

33 (d) Function as a patient-centered medical home by offering high-
34 quality, cost-effective patient-centered care, including wound care;

35 (e) Provide harm reduction services and supplies; and

36 (f) Provide linkage to housing, transportation, and other support
37 services.

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

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

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

11 **Part X – Providing a Statewide Directory of Recovery Services**

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

14 Subject to funding provided for this specific purpose, the
15 authority must collaborate with the department and the department of
16 social and health services to expand the Washington recovery helpline
17 and the recovery readiness asset tool to provide a dynamically
18 updated statewide behavioral health treatment and recovery support
19 services mapping tool that includes a robust resource database for
20 those seeking services and a referral system to be incorporated
21 within the locator tool to help facilitate the connection between an
22 individual and a facility that is currently accepting new referrals.
23 The tool must include dual interface capability, one for public
24 access and one for internal use and management.

25 **Part XI – Investing Adequately in Statewide Diversion Services**

26 NEW SECTION. **Sec. 29.** The appropriations in this section are
27 provided to the department of health and are subject to the following
28 conditions and limitations:

29 The following sums, or so much thereof as may be necessary, are
30 each appropriated: \$47,000 from the state general fund-local for the
31 fiscal biennium ending June 30, 2025; and \$13,000 from the health
32 professions account for the fiscal biennium ending June 30, 2025. The
33 amounts in this section are provided solely for the department of
34 health to adopt rules related to mobile medication units and conduct
35 inspections for such units under RCW 71.24.590.

1 NEW SECTION. **Sec. 30.** The appropriations in this section are
2 provided to the department of revenue and are subject to the
3 following conditions and limitations:

4 The following sums, or so much thereof as may be necessary, are
5 each appropriated: \$594,000 from the state general fund for the
6 fiscal year ending June 30, 2024; and \$140,000 from the state general
7 fund for the fiscal year ending June 30, 2025. The amounts in this
8 section are provided solely for the department of revenue to
9 administer the recovery residence tax exemption created in RCW
10 84.36.043.

11 NEW SECTION. **Sec. 31.** The appropriation in this section is
12 provided to the joint legislative audit and review committee and is
13 subject to the following conditions and limitations:

14 The sum of \$23,000, or as much thereof as may be necessary, is
15 appropriated for the fiscal biennium ending June 30, 2025, from the
16 performance audits of government account. The amount in this section
17 is provided solely for the purposes of conducting a tax preference
18 review of the property tax exemption for recovery residences under
19 RCW 84.36.043.

20 NEW SECTION. **Sec. 32.** The appropriation in this section is
21 provided to the Washington state patrol and is subject to the
22 following conditions and limitations:

23 The following sums, or so much thereof as may be necessary, are
24 each appropriated: \$813,000 from the state general fund for the
25 fiscal year ending June 30, 2024; and \$450,000 from the state general
26 fund for the fiscal year ending June 30, 2025. The amounts in this
27 section are provided solely to support the Washington state patrol
28 bureau of forensic laboratory services in completing the necessary
29 analysis for any evidence submitted for a suspected violation of RCW
30 69.50.4011(1)(b), 69.50.4013, or 69.41.030 within 45 days of receipt
31 of the request for analysis.

32 NEW SECTION. **Sec. 33.** The appropriations in this section are
33 provided to the state health care authority and are subject to the
34 following conditions and limitations:

35 (1) The following sums, or so much thereof as may be necessary,
36 are each appropriated: \$3,600,000 from the opioid abatement
37 settlement account for the fiscal biennium ending June 30, 2025;

1 \$700,000 from the state general fund for the fiscal year ending June
2 30, 2024; and \$700,000 from the state general fund for the fiscal
3 year ending June 30, 2025. The amounts in this subsection are
4 provided solely for the purposes of maintaining a memorandum of
5 understanding with the criminal justice training commission to
6 provide ongoing funding for community grants under RCW 36.28A.450.

7 (2) The following sums, or so much thereof as may be necessary,
8 are each appropriated: \$3,783,000 from the opioid abatement
9 settlement account for the fiscal biennium ending June 30, 2025; and
10 \$3,810,000 from the general fund-federal for the fiscal biennium
11 ending June 30, 2025. The amounts in this subsection are provided
12 solely for the administration of this act.

13 (3) The following sums, or so much thereof as may be necessary,
14 are each appropriated: \$1,000,000 from the state general fund for the
15 fiscal year ending June 30, 2024; and \$1,000,000 from the state
16 general fund for the fiscal year ending June 30, 2025. The amounts in
17 this subsection are provided solely for the authority to award grants
18 to crisis services providers to establish and expand 23-hour crisis
19 relief center capacity. It is the intent of the legislature that
20 grants are awarded to an equivalent number of providers to the west
21 and the east of the Cascade mountains. The authority must consider
22 the geographic distribution of proposed grant applicants and the
23 regional need for 23-hour crisis relief centers when awarding grant
24 funds.

25 (4) The sum of \$4,000,000, or as much thereof as may be
26 necessary, is appropriated for the fiscal biennium ending June 30,
27 2025, from the opioid abatement settlement account. The amount in
28 this subsection is provided solely for the authority to establish a
29 health engagement hub pilot program to include both urban and rural
30 locations under section 26 of this act.

31 (5) The sum of \$3,768,000, or as much thereof as may be
32 necessary, is appropriated for the fiscal biennium ending June 30,
33 2025, from the opioid abatement settlement account. The amount in
34 this subsection is provided solely for the authority to increase the
35 number of mobile methadone units operated by existing opioid
36 treatment providers, increase the number of opioid treatment provider
37 fixed medication units operated by existing opioid treatment
38 providers, and to expand opioid treatment programs with a
39 prioritization for rural areas.

1 (6) The sum of \$5,242,000, or as much thereof as may be
2 necessary, is appropriated for the fiscal biennium ending June 30,
3 2025, from the opioid abatement settlement account. The amount in
4 this subsection is provided solely for the authority to provide
5 grants to providers of employment and educational services to
6 individuals with substance use disorder under section 27 of this act.

7 (7) The following sums, or so much thereof as may be necessary,
8 are each appropriated: \$750,000 from the state general fund for the
9 fiscal year ending June 30, 2024; \$750,000 from the state general
10 fund for the fiscal year ending June 30, 2025; and \$500,000 from the
11 opioid abatement settlement account for the fiscal biennium ending
12 June 30, 2025. The amounts in this subsection are provided solely for
13 the authority to provide grants to support substance use disorder
14 family navigator programs.

15 (8) The following sums, or so much thereof as may be necessary,
16 are each appropriated: \$3,750,000 from the state general fund for the
17 fiscal year ending June 30, 2024; and \$3,750,000 from the state
18 general fund for the fiscal year ending June 30, 2025. The amounts in
19 this subsection are provided solely for the authority to provide
20 short-term housing vouchers for individuals with substance use
21 disorders, with a focus on providing such resources to people in the
22 five most populous counties of the state.

23 (9) The following sums, or so much thereof as may be necessary,
24 are each appropriated: \$2,000,000 from the state general fund for the
25 fiscal year ending June 30, 2024; and \$2,000,000 from the state
26 general fund for the fiscal year ending June 30, 2025. The amounts in
27 this subsection are provided solely for the authority to provide
28 grants for the operational costs of new staffed recovery residences
29 which serve individuals with substance use disorders who require more
30 support than a level 1 recovery residence, with a focus on providing
31 grants to recovery residences which serve individuals in the five
32 most populous counties of the state.

33 (10) The following sums, or so much thereof as may be necessary,
34 are each appropriated: \$1,000,000 from the state general fund for the
35 fiscal year ending June 30, 2024; and \$1,000,000 from the state
36 general fund for the fiscal year ending June 30, 2025. The amounts in
37 this subsection are provided solely for the authority to support the
38 provision of behavioral health co-responder services on nonlaw
39 enforcement emergency medical response teams.

1 (11) The following sums, or so much thereof as may be necessary,
2 are each appropriated: \$250,000 from the state general fund for the
3 fiscal year ending June 30, 2024; and \$250,000 from the state general
4 fund for the fiscal year ending June 30, 2025. The amounts in this
5 subsection are provided solely for the authority to continue and
6 increase a contract for services funded in section 215(127), chapter
7 297, Laws of 2022 (ESSB 5693) to provide information and support
8 related to safe housing and support services for youth exiting
9 inpatient mental health and/or substance use disorder facilities to
10 stakeholders, inpatient treatment facilities, young people, and other
11 community providers that serve unaccompanied youth and young adults.

12 (12) The following sums, or so much thereof as may be necessary,
13 are each appropriated: \$2,500,000 from the state general fund for the
14 fiscal year ending June 30, 2024; and \$2,500,000 from the state
15 general fund for the fiscal year ending June 30, 2025. The amounts in
16 this subsection are provided solely for the authority to award
17 contracts through the grant program for law enforcement assisted
18 diversion under RCW 71.24.589.

19 NEW SECTION. **Sec. 34.** The appropriations in this section are
20 provided to the department of commerce and are subject to the
21 following conditions and limitations:

22 The following sums, or so much thereof as may be necessary, are
23 each appropriated: \$1,500,000 from the state general fund for the
24 fiscal year ending June 30, 2024; and \$1,500,000 from the state
25 general fund for the fiscal year ending June 30, 2025. The amounts in
26 this section are provided solely for the office of homeless youth to
27 administer a competitive grant process to award funding to licensed
28 youth shelters, HOPE centers, and crisis residential centers to
29 provide behavioral health support services, including substance use
30 disorder services, for youth in crisis, and to increase funding for
31 current grantees.

32 NEW SECTION. **Sec. 35.** The appropriations in this section are
33 provided to the office of public defense and are subject to the
34 following conditions and limitations:

35 The following sums, or so much thereof as may be necessary, are
36 each appropriated: \$3,000,000 from the state general fund for the
37 fiscal year ending June 30, 2024; and \$6,000,000 from the state
38 general fund for the fiscal year ending June 30, 2025. The amounts in

1 this section are provided solely for the purpose of section 39 of
2 this act.

3 **Part XII - Streamlining Substance Use Disorder Treatment Assessments**

4 NEW SECTION. **Sec. 36.** A new section is added to chapter 71.24
5 RCW to read as follows:

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

18 (2) The work group must include care providers, payors, people
19 who use drugs, individuals in recovery from substance use disorder,
20 and other individuals recommended by the authority. The work group
21 shall present its recommendations to the governor and appropriate
22 committees of the legislature by December 1, 2024.

23 **Sec. 37.** RCW 18.64.600 and 2020 c 244 s 2 are each amended to
24 read as follows:

25 (1) The license of location for a pharmacy licensed under this
26 chapter may be extended to a remote dispensing site where technology
27 is used to dispense medications (~~(approved by the United States food~~
28 ~~and drug administration)~~) used for the treatment of opioid use
29 disorder or its symptoms.

30 (2) In order for a pharmacy to use remote dispensing sites, a
31 pharmacy must register each separate remote dispensing site with the
32 commission.

33 (3) The commission shall adopt rules that establish minimum
34 standards for remote dispensing sites registered under this section.
35 The minimum standards shall address who may retrieve medications for
36 opioid use disorder stored in or at a remote dispensing site pursuant
37 to a valid prescription or chart order. The minimum standards must

1 require the pharmacy be responsible for stocking and maintaining a
2 perpetual inventory of the medications for opioid use disorder stored
3 in or at the registered remote dispensing site. The dispensing
4 technology may be owned by either the pharmacy or the registered
5 remote dispensing site.

6 (4) The secretary may adopt rules to establish a reasonable fee
7 for obtaining and renewing a registration issued under this section.

8 (5) The registration issued under this section will be considered
9 as part of the pharmacy license issued under RCW 18.64.043. If the
10 underlying pharmacy license is not active, then the registration
11 shall be considered inoperable by operation of law.

12 **Part XIII - Health Care Authority Comprehensive Data Reporting**
13 **Requirements**

14 NEW SECTION. **Sec. 38.** A new section is added to chapter 71.24
15 RCW to read as follows:

16 (1) The authority is responsible for providing regular
17 assessments of the prevalence of substance use disorders and
18 interactions of persons with substance use disorder with service
19 providers, nonprofit service providers, first responders, health care
20 facilities, and law enforcement agencies. Beginning in 2026, the
21 annual report required in subsection (3)(a) of this section shall
22 include a comprehensive assessment of the information described in
23 this subsection for the prior calendar year.

24 (2)(a) The authority shall identify the types and sources of data
25 necessary to implement the appropriate means and methods of gathering
26 data to provide the information required in subsection (1) of this
27 section.

28 (b) The authority must provide a preliminary inventory report to
29 the governor and the legislature by December 1, 2023, and a final
30 inventory report by December 1, 2024. The reports must:

31 (i) Identify existing types and sources of data available to the
32 authority to provide the information required in subsection (1) of
33 this section and what data are necessary but currently unavailable to
34 the authority;

35 (ii) Include recommendations for new data connections, new data-
36 sharing authority, and sources of data that are necessary to provide
37 the information required in subsection (1) of this section; and

1 (iii) Include recommendations, including any necessary
2 legislation, regarding the development of reporting mechanisms
3 between the authority and service providers, nonprofit service
4 providers, health care facilities, law enforcement agencies, and
5 other state agencies to gather the information required in subsection
6 (1) of this section.

7 (3) (a) Beginning July 1, 2024, and each July 1st thereafter until
8 July 1, 2028, the authority shall provide an implementation report to
9 the governor and the legislature regarding recovery residences,
10 recovery navigator programs, the health engagement pilot programs,
11 and the law enforcement assisted diversion grants program. The report
12 shall include:

13 (i) The number of contracts awarded to law enforcement assisted
14 diversion programs, including the amount awarded in the contract, and
15 the names and service locations of contract recipients;

16 (ii) The location of recovery residences, recovery navigator
17 programs, health engagement hub pilot programs, and law enforcement
18 assisted diversion programs;

19 (iii) The scope and nature of services provided by recovery
20 navigator programs, health engagement hub pilot programs, and law
21 enforcement assisted diversion programs;

22 (iv) The number of individuals served by recovery residences,
23 recovery navigator programs, health engagement hub pilot programs,
24 and law enforcement assisted diversion programs;

25 (v) If known, demographic data concerning the utilization of
26 these services by overburdened and underrepresented communities; and

27 (vi) The number of grants awarded to providers of employment,
28 education, training, certification, and other supportive programs,
29 including the amount awarded in each grant and the names of provider
30 grant recipients, as provided for in section 27 of this act.

31 (b) The data obtained by the authority under this section shall
32 be integrated with the Washington state institute for public policy
33 report under section 24 of this act.

34 (4) Beginning in the July 1, 2027, report in subsection (3) (a) of
35 this section, the authority shall provide:

36 (a) The results and effectiveness of the authority's
37 collaboration with the department of health and the department of
38 social and health services to expand the Washington recovery helpline
39 and recovery readiness asset tool to provide a dynamically updated
40 statewide behavioral health treatment and recovery support services

1 mapping tool, including the results and effectiveness with respect to
2 overburdened and underrepresented communities, in accordance with
3 section 28 of this act;

4 (b) The results and effectiveness of the authority's development
5 and implementation of a data integration platform to support recovery
6 navigator programs and to serve as a common database available for
7 diversion efforts across the state, including the results and
8 effectiveness with respect to overburdened and underrepresented
9 communities, as provided in section 22 of this act;

10 (c) The effectiveness and outcomes of training developed and
11 provided by the authority in consultation with the department of
12 children, youth, and families, as provided in section 20 of this act;
13 and

14 (d) The effectiveness and outcomes of training developed by the
15 authority for housing providers, as provided in section 17(4) of this
16 act.

17 **Part XIV - Public Defense Consultation and Representation for**
18 **Indigent Adults**

19 NEW SECTION. **Sec. 39.** A new section is added to chapter 2.70
20 RCW to read as follows:

21 (1) Subject to amounts appropriated for this specific purpose,
22 the office of public defense may provide reimbursement of eligible
23 expenses or contract directly with indigent defense providers for
24 consultation and representation services for indigent adults facing
25 pending charges or charged with violations of RCW 69.50.4011(1) (b)
26 or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), or
27 charged with offenses involving allegations of possession or public
28 use of a controlled substance, counterfeit substance, or legend drug,
29 in courts of limited jurisdiction in counties with a population of
30 500,000 or less and cities with a population of 200,000 or less. The
31 county or city may enter into an agreement with the office of public
32 defense for reimbursement of eligible expenses or designate the
33 office of public defense to contract directly with indigent defense
34 providers for consultation and representation services in their
35 jurisdiction.

36 (2) Nothing in this section creates an entitlement to counsel at
37 state expense or a right by counties or cities for the provision of

1 services by the office of public defense that would exceed the
2 amounts appropriated for this specific purpose.

3 **Part XV - Miscellaneous Provisions**

4 NEW SECTION. **Sec. 40.** Section 6 of this act takes effect
5 January 1, 2025.

6 **Sec. 41.** 2021 c 311 s 29 (uncodified) is amended to read as
7 follows:

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

10 NEW SECTION. **Sec. 42.** Sections 1 through 5, 7 through 11, and
11 41 of this act are necessary for the immediate preservation of the
12 public peace, health, or safety, or support of the state government
13 and its existing public institutions, and take effect July 1, 2023.

14 NEW SECTION. **Sec. 43.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

Passed by the Senate May 16, 2023.
Passed by the House May 16, 2023.
Approved by the Governor May 16, 2023.
Filed in Office of Secretary of State May 17, 2023.

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