

SENATE BILL REPORT

EHB 1574

As Reported by Senate Committee On:
Law & Justice, April 1, 2025

Title: An act relating to protecting access to life-saving care and substance use services.

Brief Description: Protecting access to life-saving care and substance use services.

Sponsors: Representatives Macri, Davis, Parshley, Mena, Goodman, Simmons, Ormsby, Scott, Doglio, Pollet, Salahuddin, Reed, Nance and Kloba.

Brief History: Passed House: 3/12/25, 56-41.

Committee Activity: Law & Justice: 3/24/25, 4/01/25 [DPA, DNP, w/oRec].

Brief Summary of Amended Bill

- Expands protections for a person seeking medical assistance for someone experiencing a drug-related overdose or who experiences a drug-related overdose and needs medical assistance.
- Adds health care facilities to the list of entities that are permitted to distribute and use public health supplies such as drug testing equipment through public health programs.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Holy, Ranking Member; Lovick, Salomon and Valdez.

Minority Report: Do not pass.

Signed by Senators Fortunato and Torres.

Minority Report: That it be referred without recommendation.

Signed by Senator Wagoner.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Joe McKittrick (786-7287)

Background: Controlled Substances and Exemptions from Prosecution. It is unlawful for a person to knowingly possess a controlled substance, or to knowingly use a controlled substance in a public place. Possession of a controlled substance and use of a controlled substance in a public place are gross misdemeanor crimes.

A person may not be charged or prosecuted for possession of a controlled substance or penalized for possession of 40 grams or less of cannabis, if the evidence for the charge is obtained because that person, acting in good faith, seeks medical attention for someone experiencing a drug-related overdose, or experiences a drug-related overdose and needs medical attention. This protection is not grounds for suppression of evidence in other criminal charges.

Mandatory Arrest. A police officer must arrest and take into custody a person without a warrant when the officer has probable cause to believe that the person:

- has violated a domestic violence protection order, sexual assault protection order, stalking protection order, vulnerable adult protection order, foreign protection order, or Canadian domestic violence protection order; or
- is 18 years of age or older and assaulted a family or household member or intimate partner in the preceding four hours if the alleged assault is a felony, causes bodily injury, or was a physical action intended to cause a person to reasonably fear imminent serious bodily injury or death.

Drug Paraphernalia. Drug paraphernalia is all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance other than cannabis.

Selling or permitting drug paraphernalia to be sold is a class I civil infraction. The prohibitions related to drug paraphernalia do not prohibit distribution or use of public health supplies, including syringe equipment, smoking equipment, or drug testing equipment, through public health programs; community-based HIV prevention programs; outreach, shelter, and housing programs; and pharmacies. Public health and syringe service program staff are exempt from arrest and prosecution for taking samples of substances and using testing equipment to analyze or detect substances.

Summary of Amended Bill: A person acting in good faith who seeks medical assistance for someone experiencing a drug-related overdose, or who experiences a drug-related overdose and needs medical assistance may not:

- be arrested, charged, prosecuted, or convicted for possession or use of a controlled substance or penalized for possession of 40 grams or less of cannabis;

- have their property subject to civil forfeiture for being in possession of or using a controlled substance, except for items in plain sight; or
- be penalized for:
 1. violating probation or supervision related to being in possession or use of a controlled substance; or
 2. failing to appear on a nonviolent or nonsexual charge.

Such protections only apply if the property that would be subject to civil forfeiture or the evidence of the possible charge of such a violation was obtained as a result of the overdose and the need for medical assistance.

The protections from arrest are exceptions to mandatory arrest for specified assault charges that involve domestic violence and violation of restraining orders, no contact orders, or protection orders. The provided protections do not prohibit a peace officer from lawfully detaining a person without making an arrest.

Peace officers and their employing agencies are immune from liability, including from revocation of certification, for any conduct taken or policy adopted in compliance with the specified protections, unless such actions or inactions are taken in bad faith, or with deliberate indifference or gross negligence.

Health care facilities, including hospitals, and clients of such facilities are added to the list of entities and individuals that are not prohibited under provisions of law relating to drug paraphernalia from distributing or using public health supplies, including syringe, smoking, or drug testing equipment.

EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S):

- Limits the exception to civil asset forfeiture to applying to items related to possession charges.
- Removes the protections from penalties related to violations of restraining orders, no contact orders, or protection orders.
- Limits the protections from penalties related to probation and supervision to applying to probation and supervision related to possession charges.
- Exempts Public Health and Syringe Service Program clients from arrest and prosecution for taking in samples of substances and using testing equipment to analyze or detect substances.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill provides some important steps forward in addressing issues related to drug overdoses. Medical providers want to provide these kinds of health supplies to their patients, and this bill allows them to do so. Overdoses are a leading cause of accidental death, and most can be prevented with quick intervention. This bill will help people feel safe in contacting help in a medical emergency.

CON: The civil forfeiture aspect of this bill should be limited only to items related to possession charges. The sections of the bill related to protection orders should be stricken because in domestic violence relationships the use or threat of physical harm is used as a means to control the victim. The protections in the bill related to probation and warrants should likewise be limited to applying only to probation or warrants related to possession charges. Without being able to arrest, under this bill officers would be required to make a decision of whether a person sought medical attention right there in the field. The immunity language in the bill is in no way linked to the newly listed crimes for which the immunity applies nor is it linked to time when those crimes were committed.

OTHER: This bill should be reverted to its original language, so we do not end up with a patchwork of laws. The language allowing police to detain individuals who seek medical help should also be removed. Most people experiencing an overdose do not call for help because they are afraid of who will respond. Permitting officers to handcuff and detain individuals seeking medical assistance would fly in the face of the work this Legislature has done towards de-escalation and gaining understanding of the impacts of trauma.

Persons Testifying: PRO: Caleb Banta-Green, University of Washington, School of Medicine, Addictions, Drug & Alcohol Institute (Professor).

CON: James McMahan, WA Assoc Sheriffs & Police Chiefs; Russell Brown, WA Association of Prosecuting Attorneys.

OTHER: Malika Lamont, VOCAL-WA.

Persons Signed In To Testify But Not Testifying: No one.