

Substance Use Recovery Services Advisory Committee Meeting Notes

June 6, 2022, 9:00-11:00am PDT

Meeting Recording

[WA State Substance Use Recovery Services Advisory Committee \(SURSAC\) June 6, 2022 - YouTube](#)

Attendance

HCA Executive & Administrative Support			
<input checked="" type="checkbox"/>	Jason McGill, Executive Co-Sponsor	<input checked="" type="checkbox"/>	Tony Walton, 5476 Project Manager
<input checked="" type="checkbox"/>	Michelle Martinez, Administrator	<input checked="" type="checkbox"/>	Brianna Peterson, Plan Writer
<input checked="" type="checkbox"/>	Blake Ellison, Meeting Facilitator		
Committee Members			
<input checked="" type="checkbox"/>	Michael Langer	<input checked="" type="checkbox"/>	Amber Daniel
<input checked="" type="checkbox"/>	Amber Leaders	<input type="checkbox"/>	Brandie Flood
<input checked="" type="checkbox"/>	Sen. Manka Dhingra	<input checked="" type="checkbox"/>	Vicki Lowe
<input checked="" type="checkbox"/>	Sen. John Braun	<input checked="" type="checkbox"/>	Chad Enright
<input checked="" type="checkbox"/>	Rep. Lauren Davis	<input checked="" type="checkbox"/>	John Hayden
<input checked="" type="checkbox"/>	Rep. Dan Griffey	<input checked="" type="checkbox"/>	Marshall Glass
<input checked="" type="checkbox"/>	Caleb Banta-Green	<input checked="" type="checkbox"/>	Sherri Candelario
<input type="checkbox"/>	Victor Mendez	<input checked="" type="checkbox"/>	Hallie Burchinal
<input type="checkbox"/>	Kierra Fisher	<input checked="" type="checkbox"/>	Theresa Adkison
<input checked="" type="checkbox"/>	Alexie Orr	<input checked="" type="checkbox"/>	Sarah Gillard
			Alternates / Optional Attendees:
		<input checked="" type="checkbox"/>	Rep. Jamila Taylor
		<input type="checkbox"/>	Rep. Gina Mosbrucker

Teams Meeting Attachments

1. ESB 5476 session law.SL.pdf
2. 2022-06-06 Meeting Agenda_final.docx
3. Section 1.3(l) – SURSAC Recommendation Prep Information 05-31-2022.docx
4. SURS Plan Rec 1 (RSS)v3.docx

Discussion Notes

Following the reading of Committee Norms and Expectations, Sen. Dhingra emphasized that one of the most important things this group can help the legislature with, is to generate recommendations around drug possession cases that are based on data, best practices, and the science available, and that the research is provided as well, to give robust support for the recommendation(s). She also encouraged the committee to consider the entire spectrum of care and what is working, what isn't, what's missing, and to draw from national and international best practices.

She also noted that the Substance Use Recovery Services Plan is an end product for the committee, but it will be a starting point for the legislature. Any recommendations requiring legislative action will need passing votes in the House and Senate, as well as the governor's signature.

Process Clarifications

Defining "Majority Vote" in the Voting Process

The committee voted on whether to use a simple majority (51%) as a passing vote for recommendations to be considered for the Substance Use Recovery Services Plan, or a super majority (60%). More committee members voted for a super majority than for simple majority, so a threshold of 60% in favor will be used to pass recommendations for the Plan.

Review of existing state services

In addition to bringing innovative ideas to the meetings, SURSAC members and subcommittee members are asked to review and provide recommendations for the state's existing programs and services related to substance use outreach, treatment, and recovery.

Transparency around recommendations and committee member affiliations

Committee members have been selected largely due to relevant experience and interest in the work of substance use recovery services. At times there will be recommendations brought forth that could directly support the work of specific committee members. If and when this happens, members are expected to notify the rest of the committee of the connection they have to the recommendation, so that there is full transparency.

Continued Discussion on Section 1.3(I): Recommended criminal legal response, if any, to possession of controlled substances

At the SURSAC meeting in May, the committee was asked to provide what types of information is needed to make an informed decisions regarding Section 1.3.(I). On Wednesday, June 1st, Michelle Martinez sent the following document containing a collection of information related to the SURSAC's requests:

- *Section 1.3(I) – SURSAC Recommendation Prep Information 05-31-2022* (refer to Teams meeting attachment)

To frame the conversation, language from [5476 Sections 1.3\(I\) and 9.1-3](#) were displayed.

Aaron Young, [title] explained that there are three areas where there is opportunity to recommend that the law be maintained as it is, or changed:

1. **Mental culpability and criminalization:** Adding the word “knowingly” to clarify that a person must know they are in possession of controlled substances in order to be culpable of a possession charge. So at a minimum, if the committee wants to maintain a criminal statute, some sort of mental culpability language needs to be included, per the State v. Blake ruling.
2. **Categorization of the charge:** If the committee wants to maintain knowing possession of controlled substances as a crime, then the second piece to decide is whether to categorize it as a misdemeanor (current law), a Class C felony (previous law), or something else?
3. **Guidance for prosecutors:** The law added language to encourage prosecutors to divert these misdemeanor drug possession cases for assessment, treatment, or other services. If drug possession is maintained as a criminal offense, the committee can consider whether to keep, remove, or revise this language.

Recommendations for the criminal-legal response to possession of controlled substances

No recommendations on the criminal-legal response to possession of controlled substances were generated during this conversation, but several other points were brought forth for consideration:

- **Diversion v. Referral:** Diversion is a term used when prosecutors cannot prosecute, and instead refer someone to treatment. The referral is the term in the bill that allows law enforcement, if they find someone in the possession of drugs, to provide them with information about existing resources rather than make an arrest. Currently there’s no record keeping; they simply encourage the person to go to treatment, and they’re struggling with how to keep track of the number of times those referrals occur because there’s not a historic system in place for it.
- **“Revert back to normal” is not an option,** because the Supreme Court ruled that the previous law was unconstitutional. If the existing law, which categorizes knowing possession of substances as a misdemeanor, sunsets in July 2023 without further legislative action, the state returns to the Blake decision with no criminal categorization for the knowing possession of controlled substances.]
- **Misdemeanors and failing to appear in court:** It would be helpful to look at the number of people who have been engaged by police and issued misdemeanors for possession and then failed to appear in court, because failing to appear is yet another level of interaction that leads to the accumulation of more and more legal culpability in the criminal system, and can often lead to confinement.
 - This is part of what the LEAD framework tries to address with case management services, to keep people from receiving “failure to comply” charges by meeting people where they are at and supporting them to stay out of the criminal justice loop.
 - Since the Blake ruling and passing of 5476, the issue of people failing to appear in court has diminished significantly because prosecutors are not prosecuting those cases, including charges of misdemeanor. After speaking with several county prosecutors around the state about whether anyone else is prosecuting or receiving referrals for these types of cases, it appears they are not. And if they aren’t taking the case to court, then people are not failing to appear in court.
- **Presentation on Recovery Navigator Program:** It would be worthwhile to have a presentation on what is happening within the Recovery Navigator Program and how the state’s \$45 million investment in peer-centered, peer-driven, person-centered, intensive case management

Commented [MME(1)]: Want to double check accuracy of this one... came from Sen. Braun’s comments

services are being stood up and how the program works to support meaningful engagement and referrals from law enforcement into community-based care, as well as any preliminary – even qualitative – information about what people are experiencing on the ground.

- **People with SUD entering the system on other charges:** While people may not be entering the criminal justice system under a drug possession case, they're still coming in on charges related to criminal trespassing, theft, or other crimes that a lot of people associate with individuals who have a substance use disorder. And it would be helpful to get data on how the therapeutic courts are doing -- mental health courts, drug courts, community courts – because they're still getting referrals. People with SUD are still entering the system, just not on drug possession charges. It would be helpful to ask the therapeutic courts for their numbers on who they're seeing, and the services they're providing.
- **Law enforcement referrals to services and assessments:** Since each police department is using its own system to track community-based care referrals, and the data collection systems are not centralized (outside of LEAD), we need to figure out a way to combine the data for a more comprehensive understanding of who is and has received referrals, which will help law enforcement better serve the community.
- **The last year is not a fair test of the law:** The new law is supposed to support diversion/referral to a care model that largely doesn't exist. Even if the data existed, which it doesn't, it would need to reflect a system that includes diversion/referral and new low barrier and harm reduction access points and care.
- **Meeting people exiting jails into homelessness:** Spokane is working to identify ways to meet people as they are exiting jails into homelessness and identifying challenges to navigate individuals directly out of the jail system. Having initial contact before spending a night on the streets is crucial.
- **Criminalizing drug possession is akin to criminalizing substance use disorder:** If someone is charged for possession, and they have the drugs because of an addiction, they are essentially being charged for having a substance use disorder
- **We don't have to make drug users criminals to get drugs off the street.** Criminalizing the use of drugs is not the only way to get drugs off the street, and we should be exploring other strategies for minimizing supply.
- **Implement LEAD at scale:** Lead is not just a response program, it's a runway to system change. It demonstrates how the system can operate differently to support people that experience substance use disorder, or engage in public order, or behaviors that are associated with public disorder because of their behavioral health issues; and substance use disorder is a behavioral health and poverty issue. Changing the law to decriminalize simple possession doesn't address the broader issue and meet the need to foster connections for those who need services and support. We've made it so conditional and high barrier for people to get access. The LEAD model is internationally recognized for addressing recidivism, and connecting people to services.
- **The criminal legal system is being used to save lives:** When someone is in significant crisis, it can take hours and hours to get a social worker, sometimes days. The criminal-legal system has been used to save lives when someone is in a substance use related or mental health related crisis, to get involved in their lives so they don't end up dying. We could use a hybrid approach, where law enforcement gets them to a crisis stabilization situation – and sometimes jail

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functions as crisis stabilization. We can use legal tools to follow them and help them throughout their lives to make better decisions and save lives. Booking is important, because they receive guidance through the programs that are offered.

Special Meeting for Discussion of Criminal-Legal Response Recommendation

Michael Langer asked the committee if they'd like to call a special meeting to have a facilitated discussion to generate recommendations for Section 1.3(l), or use the meeting in July or August to do this.

7 members voted in favor of a special meeting. 10 voted to discuss it at one of the regularly scheduled monthly meetings (July or August).

Recommendation Review: Tax Incentives and Housing Vouchers for Recovery Housing Services

The SURSAC Recovery Support Services (RSS) subcommittee submitted a recommendation for review by SURSAC, to consider as a formal recommendation for the Substance Use Recovery Services Plan. The recommendation is to create legislative policy that provides tax incentives for recovery housing services, as well as housing vouchers for those homes. This recommendation would help fulfill elements of the Plan noted in 5476 Section 1.3(c), (d), and (e). Specific elements of this recommendation include:

- A property tax break for landlords, to incentivize leasing their rental homes to recovery housing operators
- Incentivizing HUD-owned homes to become recovery housing and matching those homes with recovery residence operators

Sherrri Candelario, co-chair of the RSS subcommittee, opened the conversation by sharing that she and her husband own multiple recovery homes ([Kate's House Foundation](#)) in King County, funded by both King County Drug Court and the Department of Corrections. She explained that her PhD research focused on blocking opioids, and that she has a bias toward medically assisted treatments. The subcommittee has been aware of this. The ideas in this recommendation were initially brought forth by Amber Daniel.

Uncertainty around whether this would incentivize homeowners to turn their properties into recovery homes: The subcommittee did not reach out to landlords to ask whether/ how much of a tax incentive would motivate them to lease their properties for recovery housing. Amber Daniel did ask someone anecdotally, on the Housing Commission for Walla Walla, who said they would consider leasing a rental property to recovery housing if there was an incentive. Hallie shared that a low-barrier recovery home she managed was sold when property values escalated significantly and the owner decided to sell, even though the owner had a significant personal investment in recovery work.

- **Additional landlord-tenant policies need to be considered to incentivize this investment among landlords following the severe losses during COVID-related eviction moratoriums.** To answer the question of whether this will be incentivizing enough to generate new recovery housing, landlords should be asked what they'd need in the underlying landlord-tenant laws that would encourage them to invest. Investing right now may feel very risky to them, and they'll need more assurances on the underlying policies before this would have the desired effect.

Request for more information about the WAQRR (Washington Alliance for Quality Recovery

Residence) standards: Before including a specific set of standards in the recommendation, it would be helpful to know what they are, such as the WAQRR standards included in this recommendation. This is important, in part, so that racial and LGBTQIA+ inclusivity and equity can be integrated into the standards for new and existing housing options.

- WAQRR Quality Standards, divided into four domains -- Administrative and Operational Domain, Physical Environment Domain, Recovery Support Domain, and Good Neighbor Domain – can be found [here](#).
- The RSS subcommittee is developing a separate recommendation to address recovery housing concerns among the LGBTQIA+ community

Request for process around Conflict of Interest disclosures among SURSAC members. SURSAC members have not been asked to sign a conflict of interest document, and it would be helpful to have a transparent understanding of whether any members stand to benefit financially from a recommendation.

Request for two-part voting process: Rather than voting yes or no to include a recommendation in the SURS Plan the first time it is discussed, it would be helpful to have the opportunity to vote first on whether it should even be pursued, and then return to it for a vote on whether to include it in the Plan.

COMMITTEE VOTE

Twenty-one SURSAC members were present for voting, and a super-majority of 60% was agreed upon as the requirement for including a recommendation in the Plan. For this recommendation, a supermajority of members voted in favor of considering the recommendation, with time to suggest changes.

Public Comment

Rep. Lekanoff: How does this group plan to consult with the Washington tribes? WA tribes have developed wellness court programs, and some tribes have had a relationship with counties where non-natives are able to go into the wellness court and then have their services conducted by the tribe, such as Skagit County and the Swinomish tribal relationship with their equality center, which is their recovery center there. I would love to see a presentation on how those codes are working – how the tribes, counties, and state government are working to incorporate non-tribal members going into the tribal wellness courts, how the services are being provided and what type of outcome they’re seeing based on the results of this process. It may be an opportunity to explore that type of model being used throughout the state.

Lisa Daugaard: In future meetings, I’m hoping the public comment portion could be at the outset, to allow members of the public to comment on the action items before the committee so that they can inform the voting process. I would also like HCA to indicate how community members can contribute materials to the conversation around criminal legal system policy and what the research and evidence is, with respect to what works for whom and what has unintended consequences for whom.

Vanessa Martin: I want to elaborate on Malika’s comments that the recommendations are missing the LEAD sites that are funded under [Senate Bill 5380](#) and/or [COSSAP](#) [Comprehensive Opioid, Stimulant, and Substance Abuse Program] funds. Also, WASPC’s [WA Association of Sheriffs and Police Chiefs]

Arrest & Jail Alternatives (AJA) programs are funded under [House Bill 1767](#), so I hope those will be included in the recommendations as they are built. In King County, we launched LEAD through the prosecutor's office, county-wide, and we are seeing incredible success in our county through this program, funded through Senate Bill 5380 and COSSAP, and expanding our program because of this success. I hope the committee includes these in the recommendations moving forward.

Brad Finegood: Regarding conflict of interest and making recommendations: where people have financial incentives as an employee of King County, I'm required to sign off on a conflict of interest form prior to employment and every single year. And I think that's really important for the integrity of this group and this committee.

Wrap Up & Next Steps

- The SURSAC voted to not hold an additional meeting to focus exclusively on recommendations related to 1.3(l), the criminal-legal response to possession of controlled substances, so this conversation will be continued at a future monthly meeting
- HCA will provide a process for submitting additional resources, studies, research, etc. for the SURSAC's consideration related to the criminal-legal response to possession of controlled substances, which will be considered for integration into the "Section 1.3(l) – SURSAC Recommendation Prep Information" document
- Michelle will collect feedback and suggested changes for the recommendation from the RSS subcommittee from SURSAC members, and forward to the RSS subcommittee for iteration before the monthly meeting on July 11th (the RSS subcommittee meets June 15th and June 29th)
- Michelle will send a copy of the WAQRR Quality Standards to SURSAC members as requested
- HCA will consult with their legal team to determine follow-up needed, if any, to address Conflict of Interest within the SURSAC