

2E2SSB 5536

Section of 5536	Summary
Sec 1: Counterfeit substances	<ul style="list-style-type: none">• Creating or delivering counterfeit substance classified in Schedule I or II, or flunitrazepam classified in schedule IV, or methamphetamine = Class B felony• Creating or delivering any other counterfeit substance classified in schedule I, II, III, or IV (except flunitrazepam), or V = class C felony• Knowing possession of counterfeit substances = gross misdemeanor• Knowing use of counterfeit substance in public place = gross misdemeanor <p>*Gross Misdemeanor under this Section, carries max penalty of 180 days total confinement and max \$1,000 fine (varies depending on prior convictions)</p> <p>*Can't charge someone for both knowing possession AND knowing use in public place relating to the same course of conduct</p> <p>*Prosecutor is encouraged to divert cases for assessment, treatment, or other services</p> <p>*Law Enforcement pre-booking diversion to RNP, AJA, LEAD encouraged</p> <p>(NOTE: For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply)</p>
Sec 2: Controlled substances	<ul style="list-style-type: none">• Knowing possession of controlled substance = gross misdemeanor• Knowing use of controlled substance in public place = gross misdemeanor <p>*Gross Misdemeanor under this Section, carries max penalty of 180 days total confinement and max \$1,000 fine (Penalties vary depending on prior convictions)</p> <p>*Can't charge someone for both knowing possession AND knowing use in public place relating to the same course of conduct</p> <p>*Prosecutor is encouraged to divert cases for assessment, treatment, or other services</p> <p>*Law Enforcement pre-booking diversion to RNP, AJA, LEAD encouraged</p>
Sec 3: Cannabis	<ul style="list-style-type: none">• Except as provided in RCW 69.50.401(2)(c) or otherwise authorized by this chapter, knowing possession of 40 grams of cannabis or less = misdemeanor <p>*Prosecutor is encouraged to divert cases for assessment, treatment, or other services</p>

*Law Enforcement pre-booking Diversion to RNP, AJA, LEAD encouraged

Sec 4: Legend Drugs	<ul style="list-style-type: none">• Unsanctioned sale, delivery, or possession (with intent to sell) of a legend drug = Class B felony• Knowing unsanctioned possession of legend drug = misdemeanor• Knowing use of legend drug in public place = misdemeanor <p>*Prosecutor is encouraged to divert cases for assessment, treatment, or other services</p> <p>*Can't charge someone for both knowing possession AND knowing use in public place relating to the same course of conduct</p> <p>*Diversion to RNP, AJA, LEAD encouraged</p>
Sec 5: Warrants	Added "Knowingly" to RCW 69.50.509- <u>Search and Seizure of Controlled Substances</u> Section of the Uniform Controlled Substances Act
Sec 6: Forensic Lab Services	Directs WA State patrol bureau of forensic laboratory services to aim to complete the necessary analysis for any evidence for suspected violation of drug-related crimes within 45-days of receipt of request for analysis. >> Takes effect January 1, 2025 (see Sec 40) Funded (see Sec 32) -- \$1,263,000 for biennium
Sec 7: Drug paraphernalia	Revises the Civil penalty statute to allow for distribution of smoking equipment and drug testing equipment through public health and other community-based programs. Adds language that precludes program staff taking samples of illicit substances from arrest and prosecution under the state's drug laws.
Sec 8: Paraphernalia preemption	Creates a State preemption for drug paraphernalia regulation of the use, selling, giving, delivery, and possession of drug paraphernalia, except as provided below: (2) "Nothing in this chapter shall be construed to prohibit cities or counties from enacting laws or ordinances relating to the establishment or regulation of harm reduction services concerning drug paraphernalia." <ul style="list-style-type: none">• Cities/counties are allowed to enact laws or ordinances related to harm reduction <i>services</i>, but cannot create more restrictive laws related to paraphernalia specifically

<p>Sec 9: Pretrial diversion</p>	<p>Creates a pretrial diversion pathway in courts of limited jurisdiction:</p> <ul style="list-style-type: none"> • In any jurisdiction with a RNP, LEAD, AJA program, a defendant charged with possession may make a motion to participate in pretrial diversion. • If the individual is only charged under the statutes in Sec. 1 through Sec. 4, and the defendant has not been convicted of any offenses committed after the effective date of this section, the court shall grant the motion, continue the hearing, and refer the defendant to a RNP, LEAD, or AJA program. • The Court may grant the motion, continue the hearing, and refer the defendant to a RNP, LEAD, or AJA program in other cases. • All diversions require that the prosecuting attorney consents to the defendant’s participation. • The prosecuting attorney may divert additional charges related to SUD for nonfelony offenses that are not crimes against persons. • If the court grants a motion for pretrial diversion, the RNP, LEAD, or AJA program shall provide the court written confirmation of completion of the assessment and a statement indicating the defendant's enrollment or referral to any specific service or program. • Subject to the availability of funds appropriated for this specific purpose, the assessment and recommended treatment or services must be provided at no cost for defendants who have been found to be indigent by the court. • If the assessment conducted includes a referral to any treatment or services, the RNP, LEAD, AJA, or other program shall provide the court with regular written (at least monthly) updates on the defendant’s progress. • If the assessment conducted does not recommend any treatment or services, the defendant must instead complete an amount of community service as determined by the court, not to exceed 120 hours. • If it appears to the prosecuting attorney that the defendant is not substantially complying with the recommended treatment or services as reflected by a written status update, the prosecuting attorney may make a motion for termination from pretrial diversion. • If the defendant successfully completes pretrial diversion, the charge or charges must be dismissed. • The pretrial diversion programs are required to start inputting data related to these diversions into the data integration platform under Sec. 22 by January 1, 2025.
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<p>Sec 10: Other resolution to charges</p>	<p>Courts are encouraged to utilize any other resolution of the charges or terms of supervision that suit the circumstances of the defendant's situation and advance stabilization, recovery, crime reduction, and justice.</p>
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<p>Sec 11: Vacating convictions</p>	<p>11(6) – If person convicted completes a SUD program and files proof of completion with the court, or obtains an assessment by RNP/AJA/LEAD, and has 6 months of substantial compliance with recommended treatment or services and progress</p>
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toward recovery goals as reflected by a written status update, upon verification the court must vacate the conviction or convictions

Sec 12: OTPs as essential public facilities	<p>Adds the following facilities to the definition of essential public facilities in RCW 36.70a.200: “opioid treatment programs including both mobile and fixed-site medication units, recovery residences, and harm reduction programs excluding safe injection sites.”</p> <p>By adding these to the definition of essential public facilities, it will help alleviate barriers to developing these programs at the community level.</p>
Sec 13: LEAD	<p>Shifts LEAD from a pilot program to an ongoing grant program</p> <p>Funded (Sec 33(12)) -- \$5,000,000 for biennium</p>
Sec 14: OTP Licensing & Public Notice	<p>Requires conditional use permits for the siting of OTPs only to the extent that they are similarly applied to other essential public facilities and health care settings.</p> <p>Requires public notice to be provided to “all appropriate media outlets” in the community where an OTP is proposed to be located.</p> <p>Removes imposition of maximum capacity for OTPs</p> <p>Allows mobile or fixed site medication units to be established as part of a licensed OTP.</p> <p>Expressly includes methadone as permitted OUD medication.</p>
Sec 15: Construction for SUD Tx & Recovery Residences	<p>Dept of Commerce establishes a program to fund the construction costs necessary to create new SUD treatment and services programs, and recovery housing, in underserved regions of the state currently lacking them, such as central and eastern Washington and rural areas</p>
Sec 16: Repealing 10.31.115	<p>Repeals: “For all individuals who otherwise would be subject to arrest for possession...in lieu of jail booking and referral to the prosecutor, law enforcement shall offer a referral to assessment and services available pursuant to RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include the recovery navigator program established under RCW 71.24.115.”</p>
Sec 17: Recovery Residences	<ul style="list-style-type: none">• Supports establishment of recovery residences• Establishes a voucher program for temporary housing – funded per 33(8)• Directs HCA to conduct outreach to rural/underserved areas to support development of recovery residences, including adequate resources for

	<p>women, LGBTQIA+ communities, black, indigenous and other people of color communities, immigrant communities, and youth</p> <ul style="list-style-type: none"> • Directs HCA to develop a training for housing providers re: providing appropriate service to LGBTQIA+ communities, black, indigenous, and other people of color communities, and immigrant communities, including consideration of topics like harassment, communication, antiracism, diversity, and gender affirming behavior, and ensure applicants for grants or loans related to recovery residences receive access to the training. <p>Housing Vouchers Funded (see Sec 33(8)) -- \$7,500,000 for biennium</p> <p>Recovery Residences Funded (see Sec 33(9)) -- \$4,000,000 for biennium</p>
<p>Sec 18: Recovery Residence tax exemption</p>	<p>Real and personal property owned, rented, or leased by a nonprofit organization to maintaining a registered recovery residence is exempted from taxation if the charge for the housing does not exceed the actual cost of operation and maintenance</p>
<p>Sec 19: Recovery Residence tax preference performance statement</p>	<p>Necessary language around tax law added.</p>
<p>Sec 20: SUD training for parents</p>	<p>Establishes a training for parents of adolescents and transition age youth with substance use disorders to provide education, communication strategies, means to obtain opioid overdoses reversal medication, self-care, and suicide prevention.</p>
<p>Sec 21: DCYF Naloxone for employees</p>	<p>“The department shall provide opioid overdose reversal medication and training in the use of such medication to all department staff whose job duties require in-person service or case management for child welfare or juvenile rehabilitation clients.”</p>
<p>Sec 22: Data integration platform for diversion programs</p>	<p>Directs HCA to develop and implement a data integration platform to support RNP, LEAD, AJA programs, and similar diversion efforts to track and manage data related to pre-arrest diversion efforts and pretrial diversion outcomes by June 30, 2025</p> <p>>> begin inputting data by Jan 1, 2025</p> <p>>> implementation by June 30, 2025</p>

Sec 23: Health care data exemptions for data integration platform

Amends RCW 42.56.360 (Health Care Section under the Public Records Act)

Sec 24: WSIPP studies for RNP and LEAD

The authority shall contract with the Washington state institute for public policy to conduct a study of the long-term effectiveness of the recovery navigator programs under RCW 71.24.115 and law enforcement assisted diversion programs under RCW 71.24.589 implemented in Washington state, with reports due by June 30, 2028, June 30, 2033, and June 30, 2038, and an assessment as described under subsection (2) of this section.

Sec 25: BHASOs and RNPs

Revisions to RCW 71.24.115 (Recovery navigator Program)

- 25(1) Adds language to clarify intent of BHASO-RNP partnership and the roles within an RNP
- 25(2) Directs RNPs to prioritize individuals at risk of exposure to criminal legal system with respect to substance use or other behavioral health issues
- 25(3) Instructs HCA to revise its Uniform Program Standards by June 30, 2024 to achieve fidelity with LEAD core principles
- 25(4) Directs HCA to establish a schedule to regularly review RNPs *funded by BHASOs* (rather than reviewing the BHASOs themselves), and to arrange for TA to HCA, contracted providers, and independent stakeholders and partners (prosecutors and law enforcement officers), in addition to BHASOs
- 25(7) Protects civil liability protections for a range of professionals based on the administration of an RNP
- 25(8) Defines “core principles”

Sec 26: Health Engagement Hubs

Directs HCA to establish a pilot program for Health Engagement Hubs to create an all-in-one location where youth and adults who use drugs can access a range of medical, harm reduction, treatment, and social services, and linkage to housing, transportation, and other support services

>> AT LEAST 2 sites, with one in rural and one in urban setting

>> Payment structures determined by June 30, 2024

>> Implement by Aug 1, 2024

Sec 27: Education & Employment Pathways

Directs HCA to establish a grant program for providers of employment, education, training, certification, and other supportive programs designed to provide persons recovering from a substance use disorder with employment and education opportunities.

>> includes guidance re: low-barrier applications that engage with black, indigenous, persons of color and other historically underserved communities

Funded (see Sec 33(6)) -- \$5,242,000 for biennium

<p>Sec 28: Behavioral Health Services Mapping Tool</p>	<p>Directs HCA to establish a behavioral health treatment and recovery support services mapping tool that could be used to find locations of behavioral health services, and includes a referral system to help facilitate the connection between an individual and a facility that is currently accepting new referrals.</p>
<p>Sec 29: Funding for DOH rules & inspections for mobile medication units</p>	<p>Funds appropriated to the DOH to adopt rules related to mobile medication units and conduct inspections for such units under RCW 71.24.590 \$47,000 from state general fund-local + \$13,000 from health professionals account - \$60,000 for 2023-2025 biennium</p>
<p>Sec 30: Funding for tax exemption administration</p>	<p>Appropriates \$594,000 for FY24 + \$140,000 for FY25 for Dept of Revenue to administer the recovery residence tax exemption created in RCW 84.36.043 (Section 18)</p>
<p>Sec 31: Funding for tax preference review</p>	<p>\$23,000 for 2023-2025 biennium from the performance audits of government account, provided solely for the purposes of conducting a tax preference review of the property tax exemption for recovery residences under RCW 84.36.043 (Section 18)</p>
<p>Sec 32: Funding for forensic lab services</p>	<p>Appropriates \$813,000 for FY24 + \$450,000 for FY25, provided solely to support the WA State Patrol Bureau of Forensic Laboratory Services to complete the necessary analysis for any evidence submitted for suspected violation of 69.50.4011(1)(b), 69.50.4013, or 69.41.030 within 45 days of receipt of the request for analysis</p>
<p>Sec 33. Appropriations</p>	<p>33(1) – AJA expansion funding, \$5,000,000 for biennium 33(2) – Administration funding for 5536: \$7,593,000 for biennium 33(3) – Funding for 23-Hour Crisis Relief Centers, \$2,000,000 for biennium 33(4) – Funding for Health Engagement Hubs pilot, \$4,000,000 for biennium 33(5) – Funding for OTP expansion with prioritization in rural areas, \$3,768,000 for biennium 33(6) – Funding for Education & Employment grants, \$5,242,000 for biennium 33(7) – Funding for SUD Family Navigator expansion, \$2,000,000 for biennium 33(8) – Funding for short-term housing vouchers, \$7,500,000 for biennium</p>

	<p>33(9) – Funding for operational costs of new staffed recovery residences requiring more support than level 1, \$4,000,000 for biennium</p> <p>33(10) – Funding for behavioral health co-responder services, \$2,000,000 for biennium</p> <p>33(11) – Funding for the Bridge Program under ESSB 5693 (youth transition from inpatient MH/SUD facilities), \$500,000 for biennium</p> <p>33(12) – Funding for LEAD grant program (Sec 13), \$5,000,000 for biennium</p>
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Sec 34: Funding for office of homeless youth	Appropriates \$3,000,000 for 2023-2025 biennium to Dept of Commerce Office for the Office of Homeless youth to administer a competitive grant process to award funding to licensed youth shelters, HOPE centers, and crisis residential centers to provide behavioral health support services, including SUD services, for youth in crisis, and to increase funding for current grantees
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Sec 35: Funding for office of public defense	Appropriates \$3,000,000 for FY24 and \$6,000,000 for SFY25 biennium to the office of public defense, provided solely for the purpose of section 39 (reimbursement for defense providers of indigent defendants)
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Sec 36: SUD assessments work group	<p>Directs HCA to convene a work group to recommend changes to systems, policies, and processes related to intake, screening,, and assessment for SUD services with the goal to broaden the workforce capable of administering SUD assessments and make the assessment process as brief as possible, etc.</p> <p><u>>> Recommendations are due to the governor and appropriate committees of the legislature by December 1, 2024.</u></p>
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Sec 37: Pharmacy medication dispensing sites	<p>Amends RCW 18.64.600 (Opioid Use Disorder Medications- Remote Dispensing Sites- Registration- Rules- Fees)</p> <p>Added language that clarified that medications can be dispensed to treat symptoms of opioid use disorder.</p> <p>Added language that “the dispensing technology may be owned by either the pharmacy or the registered remote dispensing site.”</p>
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Sec 38: HCA Data Reporting	<ul style="list-style-type: none"> Tasks HCA with providing regular “SUD Prevalence & Interactions Assessments” that report on the prevalence of SUD and interactions of persons with SUD with service providers, nonprofit service providers, first responders, health care facilities, and law enforcement agencies. <p>>> Preliminary Inventory Report 1 (to identify data collection needs to achieve this): due Dec 1, 2023</p>
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	<p>>> Final Inventory Report: due Dec 1, 2024</p> <ul style="list-style-type: none"> • 5536 Implementation Reports with data related to Recovery Residences, Education & Employment grants, RNPs, Health Engagement Hubs, and LEAD grants <ul style="list-style-type: none"> >> Implementation report 1: Due July 1, 2024 >> Implementation report 2: Due July 1, 2025 >> Implementation report 3 with SUD prevalence & interactions data: Due July 1, 2026 >> Implementation report 4 with SUD prevalence & interactions data + results and effectiveness reporting for (1) recovery support services mapping tool, (2) the diversion efforts data integration platform, (3) SUD parent training with DCYF, (4) Recovery housing provider training
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Sec 39: Public defense for indigent adults

Creates a new Section in Chapter 2.70 which states “subject to amounts appropriated for this specific purpose, the office of public defense may provide reimbursement of eligible expenses or contract directly with indigent defense providers for consultation and representation services for indigent adults facing pending charges.”

Funded (see Sec 35) -- \$3,000,000 for SFY24 and \$6,000,000 for SFY25

Sec. 40	“Section 6 of this Act takes effect January 1, 2025.”
Sec. 41	“2021 c 311 s 29 (uncodified) is amended to read as follows: Sections 8 through 10 and 12 of this act expire July 1, 2023.”
Sec. 42	“Sections 1 through 5, 7 through 11, and 41 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2023.”
Sec. 43	“If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.”