

Senate Bill 5536 – Blake Decision Replacement Bill

Possession Offenses and Offense Classification	<p>Provides that it is unlawful to "knowingly" possess the following substances:</p> <ol style="list-style-type: none"> 1. Counterfeit substance (gross misdemeanor) – counterfeit prescribed drugs 2. Controlled substance (gross misdemeanor) – hard drugs (cocaine, meth, etc.) 3. Legend drug (misdemeanor) – prescription drugs 4. An ounce or more of cannabis, or any amount of cannabis for those under 21 years old (misdemeanor). <p>Gross misdemeanors carry a potential maximum sentence of 364 days in jail, a \$5,000 fine, or both.</p> <p>Misdemeanors carry a carry a maximum sentence of 90 days in jail, a \$1,000 fine, or both.</p>
Pretrial Diversion (Step 1)	<p>Creates a pretrial diversion program for those charged with possession. The court may grant pretrial diversion upon the motion of the defendant. If pretrial diversion is granted, the defendant must comply with recommended treatment.</p> <p>If the defendant:</p> <ol style="list-style-type: none"> 1. Is not substantially complying in the recommended treatment or services; 2. Is convicted of an offense that reflects the defendant's propensity for violence; 3. Is charged with possession after acceptance into pretrial diversion; or 4. Is convicted of a felony; then 5. The prosecutor may make a motion to terminate pretrial diversion and the criminal hearing will continue. RCW 69.50.4013 <p>If the defendant successfully completes pretrial diversion, including substantially complying with treatment or services, the court must dismiss the charge or charges.</p>
Deferred Prosecution (Step 2)	<p>If the person is convicted of a possession offense, the court shall order the defendant to submit to a substance use disorder assessment and comply with recommended treatment.</p> <p>The court must vacate the conviction if the defendant successfully completes the required treatment and files proof with the court of the successful completion.</p>
Sentencing (Step 3)	<p>If convicted of possession of a controlled or counterfeit substance, and the person agrees to submit to a substance use disorder assessment and comply with recommended treatment, the person must be sentenced to 364 days in jail, which must be suspended for a maximum of two years.</p> <p>If convicted as outlined above, and the court finds that the person willfully abandoned treatment or demonstrated a consistent failure to comply with treatment:</p> <ol style="list-style-type: none"> 1. For first time being sentenced, the court has discretion to determine amount of time of suspended sentence to be reinstated. 2. For the second time being sentenced, no less than 21 days of the sentence shall be reinstated. 3. For the third time being sentenced, no less than 45 days of the sentence shall be reinstated.

	<p>If convicted of possession of a legend drug, and the person agrees to submit to a substance use disorder assessment and comply with recommended treatment, the person must be sentenced to 90 days in jail, which must be suspended for a period not to exceed one year.</p> <p>If convicted of possession of a schedule II substance and the person refuses to submit to treatment as a condition of probation, the person must be sentenced to no less than 21 days in jail.</p>
<p>Other Provisions \$50m+</p>	<p>Removes the prohibition on giving drug paraphernalia. Selling drug paraphernalia is still a civil infraction. The drug paraphernalia statute does not apply to the distribution or use of public health supplies, including syringe equipment, smoking equipment, or testing equipment, through public health programs and community-based HIV prevention programs and pharmacies.</p> <p>Treatment programs, recovery residences, and harm reduction programs are classified as essential public facilities for land use regulations. The Health Care Authority (HCA) must develop a payment structure for health engagement hubs. These hubs are locations where people who use drugs can access a range of medical, harm reduction, treatment, and social services. These hubs may not provide supervised injection services.</p> <p>HCA must make sufficient funding available to establish an adequate stock of recovery residences in each region of the state</p> <p>HCA must establish a voucher program to allow accredited recovery housing operators to hold bed space for individuals waiting for treatment or who have returned to substance use and need a place to stay while negotiating a return to stable housing.</p> <p>HCA must convene a work group to recommend changes to intake, screening and assessment for substance use disorder services.</p> <p>The Washington State Patrol (WSP) shall aim to complete the analysis of suspected drugs in possession cases within 45 days of the request for analysis.</p>
<p>Other items Incorporated into Striker</p>	<ol style="list-style-type: none"> 1. Prohibits health engagement hubs from providing supervised injection services. 2. Restores the requirement that the Department of Health hold a public hearing in the community where an opioid treatment facility is proposed to be located when considering a licensing application for an opioid treatment facility. 3. Requires defendants to substantially comply with recommended treatment to successfully complete pretrial diversion, as opposed to "meaningfully engage" in recommended treatment. 4. Provides that the prosecutor may make a motion for termination of pretrial diversion if the defendant is charged with simple possession subsequent to acceptance into pretrial diversion. 5. Provides that WSP's failure to complete the analysis of any evidence related to a possession offense within 45 days does not constitute grounds for dismissal of the charges.