

Multiple Agency Fiscal Note Summary

| | |
|-----------------------------|----------------------------------------|
| Bill Number: 1499 HB | Title: Sub. use disorder/health |
|-----------------------------|----------------------------------------|

Estimated Cash Receipts

| Agency Name | 2021-23 | | | 2023-25 | | | 2025-27 | | |
|----------------------------------------|------------------------------------------------------------------------|-------------|----------------|----------|-------------|----------------|----------|-------------|----------------|
| | GF-State | NGF-Outlook | Total | GF-State | NGF-Outlook | Total | GF-State | NGF-Outlook | Total |
| Washington State Health Care Authority | 0 | 0 | 866,000 | 0 | 0 | 834,000 | 0 | 0 | 834,000 |
| Washington State Patrol | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Total \$ | 0 | 0 | 866,000 | 0 | 0 | 834,000 | 0 | 0 | 834,000 |

Estimated Operating Expenditures

| Agency Name | 2021-23 | | | | 2023-25 | | | | 2025-27 | | | |
|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|------------------|-------------|------------------|------------------|------------------|-------------|------------------|------------------|------------------|
| | FTEs | GF-State | NGF-Outlook | Total | FTEs | GF-State | NGF-Outlook | Total | FTEs | GF-State | NGF-Outlook | Total |
| Administrative Office of the Courts | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 |
| Caseload Forecast Council | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 |
| Washington State Health Care Authority | 6.5 | 866,000 | 866,000 | 1,732,000 | 6.5 | 834,000 | 834,000 | 1,668,000 | 6.5 | 834,000 | 834,000 | 1,668,000 |
| Washington State Health Care Authority | In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note. | | | | | | | | | | | |
| Washington State Patrol | 7.0 | 1,666,935 | 1,666,935 | 1,710,259 | 7.0 | 1,591,100 | 1,591,100 | 1,634,424 | 7.0 | 1,591,100 | 1,591,100 | 1,634,424 |
| Washington State Patrol | In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note. | | | | | | | | | | | |
| Criminal Justice Training Commission | .0 | 63,000 | 63,000 | 63,000 | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 |
| Department of Health | .1 | 0 | 0 | 29,000 | .0 | 0 | 0 | 2,000 | .0 | 0 | 0 | 2,000 |
| Department of Corrections | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 |
| Total \$ | 13.6 | 2,595,935 | 2,595,935 | 3,534,259 | 13.5 | 2,425,100 | 2,425,100 | 3,304,424 | 13.5 | 2,425,100 | 2,425,100 | 3,304,424 |

| Agency Name | 2021-23 | | | 2023-25 | | | 2025-27 | | |
|---------------------|------------------------------------------------------------------------|----------|-------|---------|----------|-------|---------|----------|-------|
| | FTEs | GF-State | Total | FTEs | GF-State | Total | FTEs | GF-State | Total |
| Local Gov. Courts | | | | | | | | | |
| Loc School dist-SPI | | | | | | | | | |
| Local Gov. Other | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Local Gov. Total | | | | | | | | | |

Estimated Capital Budget Expenditures

| Agency Name | 2021-23 | | | 2023-25 | | | 2025-27 | | |
|----------------------------------------|------------|----------|----------|------------|----------|----------|------------|----------|----------|
| | FTEs | Bonds | Total | FTEs | Bonds | Total | FTEs | Bonds | Total |
| Administrative Office of the Courts | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Caseload Forecast Council | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Washington State Health Care Authority | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Washington State Patrol | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Criminal Justice Training Commission | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Department of Health | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Department of Corrections | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Total \$ | 0.0 | 0 | 0 | 0.0 | 0 | 0 | 0.0 | 0 | 0 |

| Agency Name | 2021-23 | | | 2023-25 | | | 2025-27 | | |
|---------------------|------------------------------------------------------------------------|----------|-------|---------|----------|-------|---------|----------|-------|
| | FTEs | GF-State | Total | FTEs | GF-State | Total | FTEs | GF-State | Total |
| Local Gov. Courts | | | | | | | | | |
| Loc School dist-SPI | | | | | | | | | |
| Local Gov. Other | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Local Gov. Total | | | | | | | | | |

Estimated Capital Budget Breakout

| | | |
|-------------------------------------------|---------------------------------|-------------------------------------------|
| Prepared by: Cynthia Hollimon, OFM | Phone: (360) 810-1979 | Date Published: Final 2/15/2021 |
|-------------------------------------------|---------------------------------|-------------------------------------------|

Judicial Impact Fiscal Note

| | | |
|-----------------------------|----------------------------------------|--------------------------------------------------------|
| Bill Number: 1499 HB | Title: Sub. use disorder/health | Agency: 055-Administrative Office of the Courts |
|-----------------------------|----------------------------------------|--------------------------------------------------------|

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.

| | | |
|----------------------------------------|-----------------------|------------------|
| Legislative Contact: Omeara Harrington | Phone: 360-786-7136 | Date: 02/04/2021 |
| Agency Preparation: Pam Kelly | Phone: 360-705-5318 | Date: 02/12/2021 |
| Agency Approval: Ramsey Radwan | Phone: 360-357-2406 | Date: 02/12/2021 |
| OFM Review: Gaius Horton | Phone: (360) 819-3112 | Date: 02/12/2021 |

164,821.00

Request # 1499 HB-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

Please see attached Judicial Impact Note (JIN).

II. B - Cash Receipts Impact

II. C - Expenditures

Part III: Expenditure Detail

III. A - Expenditure By Object or Purpose (State)

NONE

III. B - Expenditure By Object or Purpose (County)

NONE

III. C - Expenditure By Object or Purpose (City)

NONE

III. D - FTE Detail

NONE

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B1 - Expenditures by Object Or Purpose (State)

NONE

IV. B2 - Expenditures by Object Or Purpose (County)

NONE

IV. B3 - Expenditures by Object Or Purpose (City)

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

164,821.00

Form FN (Rev 1/00)

Part II: Narrative Explanation

This bill would decriminalize possession of personal use amounts of a controlled substances, shifting from a criminal justice model to a treatment based model for drug offenders with substance use disorders.

This bill would add new vacation statutes for certain drug offenses, including misdemeanors, allowing for vacation regardless of whether the individual completed any applicable sentencing conditions.

This bill would require the Health Care Authority to create a substance use recovery services plan and form a committee to make recommendations for this plan. The director would be required to adopt rules establishing maximum personal use amounts of controlled substances known to be used by individuals for recreational use.

Part II.A – Brief Description of what the Measure does that has fiscal impact on the Courts

Section 5(1) – Would require the Health Care Authority to establish a maximum personal use amount of controlled substances known to be used by individuals for recreational use.

Section 9 – Would modify RCW 69.50.401 (possession of forty grams or less of marijuana) exempting those who possess less than the applicable personal use amount from prosecution.

Section 10 – Would exempt those in possession of drug paraphernalia when the paraphernalia is used to prepare, test, analyze, pack, etc. amounts of a controlled substance other than marijuana.

Section 14 – Would allow for notwithstanding RCW 9.94A.640 any person convicted of a controlled substance under RCW's 69.50, 69.50.4011 and 69.50.4013 before December 1, 2022 to apply to the sentencing court to have a vacation of the applicant's record of conviction regardless of whether they completed any applicable sentencing conditions.

Section 16 – Would allow for notwithstanding RCW 9.96.060 any person convicted of a controlled substance under RCW's 69.50.4013, 6950.4014, 69.50.412(1), and 69.41.030 before December 1, 2022 to apply to the sentencing court to have a vacation of the applicant's record of conviction regardless of whether they completed any applicable sentencing conditions.

II.B - Cash Receipt Impact

None

II.C – Expenditures

This bill would require changes to court forms and the Courts of Limited Jurisdiction master answer and law tables. These updates would be managed within existing resources.

Part III: Expenditure Detail

III.A – Expenditures by Object or Purpose

| | FY 2021 | FY 2022 | 2021-23 | 2023-25 | 2025-27 |
|-------------------|---------|---------|---------|---------|---------|
| FTE – Staff Years | | | | | |

| | | | | | |
|-----------------------------|--|--|--|--|--|
| A – Salaries & Wages | | | | | |
| B – Employee Benefits | | | | | |
| C – Prof. Service Contracts | | | | | |
| E – Goods and Services | | | | | |
| G – Travel | | | | | |
| J – Capital Outlays | | | | | |
| P – Debt Service | | | | | |
| Total: | | | | | |

III.B – Detail:

| Job Classification | Salary | FY 2021 | FY 2022 | 2021-23 | 2023-25 | 2025-27 |
|--------------------|--------|---------|---------|---------|---------|---------|
| | | | | | | |
| | | | | | | |
| Total FTE's | | | | | | |

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

None.

Individual State Agency Fiscal Note

| | | |
|-----------------------------|----------------------------------------|----------------------------------------------|
| Bill Number: 1499 HB | Title: Sub. use disorder/health | Agency: 101-Caseload Forecast Council |
|-----------------------------|----------------------------------------|----------------------------------------------|

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

| | | |
|----------------------------------------|-----------------------|------------------|
| Legislative Contact: Omeara Harrington | Phone: 360-786-7136 | Date: 02/04/2021 |
| Agency Preparation: Clela Steelhammer | Phone: 360-664-9381 | Date: 02/09/2021 |
| Agency Approval: Clela Steelhammer | Phone: 360-664-9381 | Date: 02/09/2021 |
| OFM Review: Cynthia Hollimon | Phone: (360) 810-1979 | Date: 02/10/2021 |

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

See attached.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

See attached.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

HB 1499

PROVIDING BEHAVIORAL HEALTH SYSTEM RESPONSES TO INDIVIDUALS WITH SUBSTANCE USE DISORDER

**101 – Caseload Forecast Council
February 8, 2021**

SUMMARY

A brief description of what the measure does that has fiscal impact.

- Section 1 Intent section.
- Section 2 Adds a new section to chapter 41.05 RCW that requires the Washington State Health Care Authority (Authority) to establish a substance use recovery services plan to implement measures to assist persons with substance use disorder.
- Section 2 Additionally establishes what the plan must consider and include. Additionally, requires the Authority to submit the plan to the Governor and Legislature by December 1, 2021; to adopt rules and enter into contracts with providers to implement the plan by December 1, 2022; and to submit implementation reports by December 1st of each year.
- Section 3 Adds a new section to chapter 41.05 RCW that requires the Authority to establish the Substance Use Recovery Services Advisory Committee. States the Advisory Committee must convene as necessary to accomplish requirements of the bill. Section expires December 31, 2026.
- Section 4 Adds a new section to chapter 41.05 RCW that establishes the funding mechanism for the Statewide Substance Use Recovery Services plan.
- Section 5 Adds a new section to chapter 71.24 RCW that requires the Director of the Authority, in consultation with the Department of Health and the Pharmacy Quality Assurance Commission, to adopt rules establishing maximum personal use amounts of certain controlled substances, counterfeit substances, and legend drugs. Additionally, requires the Director to convene and consult a work group by September 1, 2022.
- Section 5 Additionally establishes “Personal Use Amount” as the same definition for the term in RCW 69.50.101.
- Section 6 Amends RCW 69.50.101 by establishing a definition for “Personal Use Amount”.
- Section 7 Amends RCW 69.50.4011 by amending the offenses of Create, Deliver, or Possess a Counterfeit Controlled Substance (Class B or C depending upon the substance) to exclude possession of a counterfeit controlled substance in which the substance possessed was not in excess of the applicable personal use amount.
- Section 8 Amends RCW 69.50.4013 by amending the Class C offense of Unlawful Possession of a Controlled Substance to be limited to offenses in which the substance possessed was in excess of the applicable personal use amount.
- Section 9 Amends RCW 69.50.4014 by amending the misdemeanor offense Unlawful Possession of 40 grams or less of Marijuana to be limited to offenses in which the amount possessed was in excess of the applicable personal use amount (except as provided in 69.50.401(2)(c)).

- Section 10 Amends RCW 69.50.412 by amending the misdemeanor offense of Unlawful Use of Drug Paraphernalia to be limited to offenses in which the use involved controlled substances other than marijuana in excess of the applicable personal use amount.
- Section 11 Amends RCW 69.41.030 by amending the Class B offense of Sale, Delivery, or Possession with Intent to Sell Legend Drugs without a Prescription to exclude possession of legend drugs in which the legend drug possessed was not in excess of the applicable personal use amount.
- Section 12 Amends RCW 10.31.110 by amending requirements for arresting officers when there is reasonable cause to believe the individual committing acts constituting a crime is known by history or consultation to suffer from a mental disorder, including substance use disorder.
- Section 13 Adds a new section to chapter 43.101 RCW requiring all law enforcement personnel required to complete basic law enforcement training under RCW 43.101.200 to receive training on law enforcement interaction with persons with substance use disorders as part of the basic law enforcement training (as of July 1, 2022).
- Section 14 Adds a new section to chapter 9.94A RCW allowing any person convicted before December 1, 2022, of Possession of a Controlled Substance or Counterfeit Substance to apply to the sentencing court for a vacation of the applicant's record of conviction for the offense, regardless of whether the person completed any applicable sentencing conditions or received a certificate of discharge under RCW 9.94A.637.
- Section 15 Amends RCW 9.94A.640 by adding an exemption for Section 14.
- Section 16 Adds a new section to chapter 9.96 RCW, Restoration of Civil Rights, by stating any person convicted of possession of a controlled substance, counterfeit substance, or legend drug, or use of paraphernalia, before December 1, 2022, may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense, regardless of whether the person completed any applicable sentencing condition.
- Section 17 Amends RCW 9.96.060, Vacating Records of Conviction for Misdemeanors and Gross Misdemeanor Offenses, by including Section 13 as an exception for disallowing records of conviction for a misdemeanor or gross misdemeanor to be vacated.
- Section 18 Amends RCW 69.50.608, State Preemption, by including a reference to personal use amounts as provided under Section 5 of the act.
- Section 19 Establishes a null and void clause.
- Section 20 Sets effective dates for Sections 6-12 and 14-18 as December 1, 2022.

EXPENDITURES

Assumptions.

None.

Impact on the Caseload Forecast Council.

None.

Impacts on beds and supervision.

This bill:

- Removes criminal penalties associated with certain violations of chapter 69.50 and 69.41 RCW resulting from personal use amounts.

The Caseload Forecast Council (CFC) has no information concerning how many sentences for the felony offenses amended by the bill will be considered as personal use amounts under the provisions of the bill and not qualify for criminal sentencing. However, as felony offenses ranging from unranked to ranked at Seriousness Level II on the Drug Grid for adult convictions; and as Category E and C for juvenile adjudications, reductions in sentences for these offenses would result in reduced need for Juvenile Rehabilitation beds, local juvenile facility beds, jail beds, prison beds, and community custody. For misdemeanor or gross misdemeanor offenses, any violations determined to be of personal amount use would likely impact jail beds as currently such offenses are punishable by a term of jail confinement of 0-90, and 0-364, respectively.

In addition, the provisions in this bill are both prospective and retrospective in nature. The Caseload Forecast Council is equipped to supply only prospective analyses and, as such, defers to the Department of Corrections for the retrospective provisions of the bill. Section 14 of the bill allows any person convicted of possession of a controlled or counterfeit substance of personal use amounts to apply to the sentencing court for vacation of the offense, regardless of whether the person completed any applicable sentencing conditions.

The provisions of the bill that allow convictions of Possession of a Controlled or Counterfeit Substance to be vacated may result in lower criminal history scores if the person has a subsequent felony offense. This may result in a reduced need for Juvenile Rehabilitation beds, local juvenile facility beds, jail beds, and prison beds.

Individual State Agency Fiscal Note

| | | |
|-----------------------------|----------------------------------------|-----------------------------------------------------------|
| Bill Number: 1499 HB | Title: Sub. use disorder/health | Agency: 107-Washington State Health Care Authority |
|-----------------------------|----------------------------------------|-----------------------------------------------------------|

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

| ACCOUNT | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|----------------------------|---------|---------|---------|---------|---------|
| General Fund-Federal 001-2 | 449,000 | 417,000 | 866,000 | 834,000 | 834,000 |
| Total \$ | 449,000 | 417,000 | 866,000 | 834,000 | 834,000 |

Estimated Operating Expenditures from:

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|----------------------------|---------|---------|-----------|-----------|-----------|
| FTE Staff Years | 6.5 | 6.5 | 6.5 | 6.5 | 6.5 |
| Account | | | | | |
| General Fund-State 001-1 | 449,000 | 417,000 | 866,000 | 834,000 | 834,000 |
| General Fund-Federal 001-2 | 449,000 | 417,000 | 866,000 | 834,000 | 834,000 |
| Total \$ | 898,000 | 834,000 | 1,732,000 | 1,668,000 | 1,668,000 |

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

| | | |
|----------------------------------------|-----------------------|------------------|
| Legislative Contact: Omeara Harrington | Phone: 360-786-7136 | Date: 02/04/2021 |
| Agency Preparation: Cari Tikka | Phone: 360-725-1181 | Date: 02/11/2021 |
| Agency Approval: Catrina Lucero | Phone: 360-725-7192 | Date: 02/11/2021 |
| OFM Review: Bryan Way | Phone: (360) 522-3976 | Date: 02/12/2021 |

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

See attached narrative.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

See attached narrative.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

See attached narrative.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

| Account | Account Title | Type | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|-----------------|---------------|---------|----------------|----------------|------------------|------------------|------------------|
| 001-1 | General Fund | State | 449,000 | 417,000 | 866,000 | 834,000 | 834,000 |
| 001-2 | General Fund | Federal | 449,000 | 417,000 | 866,000 | 834,000 | 834,000 |
| Total \$ | | | 898,000 | 834,000 | 1,732,000 | 1,668,000 | 1,668,000 |

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|--------------------------------------|----------------|----------------|------------------|------------------|------------------|
| FTE Staff Years | 6.5 | 6.5 | 6.5 | 6.5 | 6.5 |
| A-Salaries and Wages | 540,000 | 540,000 | 1,080,000 | 1,080,000 | 1,080,000 |
| B-Employee Benefits | 198,000 | 198,000 | 396,000 | 396,000 | 396,000 |
| C-Professional Service Contracts | | | | | |
| E-Goods and Other Services | 85,000 | 85,000 | 170,000 | 170,000 | 170,000 |
| G-Travel | 4,000 | 4,000 | 8,000 | 8,000 | 8,000 |
| J-Capital Outlays | 71,000 | 7,000 | 78,000 | 14,000 | 14,000 |
| M-Inter Agency/Fund Transfers | | | | | |
| N-Grants, Benefits & Client Services | | | | | |
| P-Debt Service | | | | | |
| S-Interagency Reimbursements | | | | | |
| T-Intra-Agency Reimbursements | | | | | |
| 9- | | | | | |
| Total \$ | 898,000 | 834,000 | 1,732,000 | 1,668,000 | 1,668,000 |

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

| Job Classification | Salary | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|------------------------------|--------|---------|---------|---------|---------|---------|
| ADMINISTRATIVE ASSISTANT 2 | 45,504 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 |
| MEDICAL PROGRAM SPECIALIST 2 | 78,408 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| MEDICAL PROGRAM SPECIALIST 3 | 86,484 | 4.0 | 4.0 | 4.0 | 4.0 | 4.0 |
| WMS BAND 2 | 92,859 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| Total FTEs | | 6.5 | 6.5 | 6.5 | 6.5 | 6.5 |

III. D - Expenditures By Program (optional)

| Program | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|-----------------------------------|---------|---------|-----------|-----------|-----------|
| Community Behavioral Health (150) | 898,000 | 834,000 | 1,732,000 | 1,668,000 | 1,668,000 |
| Total \$ | 898,000 | 834,000 | 1,732,000 | 1,668,000 | 1,668,000 |

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

None

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

See attached narrative.

HCA Fiscal Note

Bill Number: 1499 HB

HCA Request #: 21-69

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

This bill promotes recovery by providing behavioral health (BH) system responses to individuals with substance use disorder (SUD) in lieu of criminalizing possession of personal use amounts of controlled substances, counterfeit substances, and legend drugs. The intent of this bill is to develop a system to provide rapid access to evidence-based and innovative substance use treatment and comprehensive recovery support services in lieu of criminal penalties for individuals in possession of drugs.

PART I – INTENT

Section 1: Establishes the need for a robust system to provide rapid access to evidence-based and innovative SUD and comprehensive recovery support services in lieu of criminal penalties for individuals in possession of drugs.

PART 2 – EXPANSION OF SUBSTANCE USE DISORDER TREATMENT AND RECOVERY SUPPORT SERVICES

Section 2 adds a new section to chapter RCW 41.05 that requires the Health Care Authority (HCA) to:

- (1) Establish a substance use recovery services plan to assist persons with SUD to access treatment and recovery services that are low barrier, person centered, informed by people with lived experience, and culturally and linguistically appropriate. Requires the plan provide continual, rapid, and widespread access to a comprehensive continuum of care for persons with SUD regardless of the point they present within the continuum of care.
- (2) Consider how the person currently accesses and interacts with the BH system, points of intersection with health care, criminal, legal, child welfare, emergency department (ED), syringe exchange, law enforcement, correctional facilities, dependency court, and congregate locations including homeless encampments, motels, and casinos.
- (3) The plan must:
 - Anticipate decriminalization of personal use amounts of controlled substances, counterfeit substances, and legend drugs used for recreational/non-medical/nonprescribed purposes as provided in section 5 of this act;
 - Include potential new community-based care access points, including the safe station model in partnership with fire departments, and strategic grant making to community organizations to educate the public and systematically disrupt and dismantle stigma and prejudice against persons with SUD by improving public understanding and promoting hope;
 - Include creative mechanisms for real time, peer-driven, noncoercive outreach and engagement to individuals in active SUD and develop measures to enhance the effectiveness of and opportunities for intervention across new and existing points of contact;
 - Support diversion to community-based care for persons that may face criminal consequences for other drug related law violations.
- (4) The plan and related rules must include treatment and recovery services available in or accessible by all jurisdictions:
 - Field based outreach and engagement;
 - Peer recovery support services;
 - Intensive case management;

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- SUD treatment, including evidence-based, promising practices, innovative approaches, and recovery supports.
 - Services must be equitably distributed across urban and rural settings;
 - If possible, services provided on demand, through 24/7 peer recovery coach response, BH triage centers or other innovative rapid response models.
- Services must be:
 - Low barrier to entry and re-entry;
 - Improve health and safety;
 - Reduce the harm of substance use and related activity for the public;
 - Integrated and coordinated;
 - Incorporate structural competency and antiracism;
 - Noncoercive methods to retain people in treatment and recovery services, including contingency management.
- (5) In developing the plan, HCA must adopt and implement recommendations of the Substance Use Advisory Committee established in section 3 of this act.
 - Where adoption of recommendations are infeasible, HCA must notify the advisory committee and request refinement and modification of recommendations for implementation.
- (6) HCA must submit the Substance Use Recovery Services Plan to the Governor and the Legislature by December 1, 2021. After submitting the plan, HCA shall adopt rules and enter into contracts with providers to implement the plan by December 1, 2022. In addition to seeking public comment under chapter 34.05 RCW, HCA must:
 - Adopt rules in accordance with substance use recovery services advisory committee as provided in subsection (5); and
 - The rules must be informed by existing diversion models that HCA administers in multiple jurisdictions in the state.
- (7) In consultation with the Substance Use Advisory Committee, HCA must submit a report on the implementation of the Substance Use Recovery Services Plan to the appropriate committees of the legislature and governor by December 1 each year, beginning in 2022.

Section 3 adds a new section to chapter RCW 41.05 to require HCA to:

- Establish the Substance Use Recovery Services Advisory Committee to advise the HCA in the development and implementation of the plan under section 2 of this act.
- In consultation with the University of Washington Department of Psychiatry and Behavioral Sciences and an organization that represents the interests of people that have been impacted by substance use and the criminal legal system, appoint members to the advisory committee who have relevant background related to people with SUD.

The committee established in this section must make recommendations and provide perspectives to HCA regarding:

- Current capacity for existing SUD programs providing SUD assessments;
- Barriers to accessing the existing health system for those populations chronically exposed to criminal legal system responses relating to complex behavioral health conditions and the consequences of trauma, and possible innovations that could reduce those barriers and improve the quality and accessibility of care for those populations;
- Evidence-based, research based, and promising treatment and recovery services appropriate for target populations;
- Workforce needs for BH services sector;

HCA Fiscal Note

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- Options for leveraging existing integrated managed care, Medicaid waiver, American Indian or Alaska Native fee-for-service BH benefits, and private insurance service capacity for SUD, including coordination with managed care organizations, Behavioral Health Administrative Service Organizations, the Washington Health Benefit Exchange, Accountable Communities of Health, and the Office of the Insurance Commissioner;
- Framework and design assistance to assist in compliance with the requirements of RCW 10.31.110 for diversion of people with complex BH conditions to community-based care and identifying resource gaps;
- Design of a referral mechanism to refer individuals with SUD to supportive services in this section;
- The design of ongoing qualitative and quantitative research about the types of services desired by people with SUD and barriers they experience in accessing existing and recommended services; and
- Proposing a funding framework in which, over time, resources are shifted from punishment sectors to community-based care interventions.

The advisory committee must convene as necessary for development of the substance use recovery services plan and the development and adoption of rules for implementing the plan. This section expires December 31, 2026.

Section 4 adds a new section to chapter RCW 41.05 that requires payment of services covered under the statewide substance use recovery services plan established under section 2 of this act to be funded in the following manner:

- Payment for covered services for individuals enrolled in Medicaid managed care plans is the responsibility of the managed care plan to whom the enrollee is assigned;
- Payment for individuals enrolled in the Medicaid fee-for-service program is the responsibility of the HCA;
- Payment for covered services for individuals enrolled in private health care plans is the responsibility of the private health care plan; and
- Payment for all other individuals as well as services not covered by Medicaid or private plans is the responsibility of the Behavioral Health Administrative Services Organization.

Outreach and engagement services and recovery support services that are not reimbursable through insurance will be funded through a combination of:

- Appropriations from the recovery pathways account;
- Targeted investments from the federal substance abuse block grant, if permissible under the grant;
- Funds recovered by the state through lawsuits against opioid manufacturers, if permissible; and
- Appropriations from the state general fund based on a calculation of the savings captured from reduced expenses for the Department of Corrections resulting from this act.

PART 3 – ELIMINATION OF CRIMINAL PENALTIES FOR POSSESSION OF PERSONAL USE AMOUNTS OF CONTROLLED SUBSTANCES, COUNTERFEIT SUBSTANCES, AND LEGEND DRUGS

Section 5 adds a new section to chapter RCW 71.24 that requires HCA and partners to adopt rules establishing maximum personal use amounts of controlled substances, counterfeit substances, and legend drugs.

Section 6 - Definitions.

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Section 7 amends RCW 69.50.4011 to read that, except as authorized in this chapter, it is unlawful to create or deliver a counterfeit substance or possess a counterfeit substance in excess of the applicable personal use amount. Section 7(2) lists penalties for violation.

Section 8 amends RCW 69.50.4012 to read that it is unlawful to possess a controlled substance in excess of the applicable personal use amount unless person has a valid prescription or as authorized in this chapter.

Section 9 amends RCW 69.50.4014 to state that except as provided in RCW 69.50.401 (2) (c) any person found guilty of possession of forty grams or less of marijuana is guilty of a misdemeanor unless the amount does not exceed the personal use amount or is otherwise authorized in this chapter.

Section 10 amends RCW 69.50.412 related to drug paraphernalia.

Section 11 amends RCW 69.41.030 related to legend drugs and penalties.

Section 12 amends RCW 10.31.110 to require:

- When a police officer has reasonable cause to believe a crime has been committed by a person known by history or consultation with the BH-ASO, MCO, crisis hotline, local crisis services providers, or community health providers, to suffer a mental disorder, including SUD, as an alternate to arrest, the arresting officer is authorized and encouraged to:
 - Take the individual to a crisis stabilization unit as defined in RCW 71.05.020;
 - Take the individual to a triage facility as defined in RCW 71.05.020;
 - Refer the individual to a Designated Crisis Responder (DCR) for evaluation for initial detention and proceeding under chapter 71.05 RCW;
 - Refer the individual to youth, adult, or geriatric mobile crisis response services as appropriate;
 - Refer the individual to an available on-demand provider in lieu of legal system; or
 - Release the individual upon agreement to voluntary participation in outpatient treatment.
- If the individual is released to the community, a BH or community health provider must make reasonable efforts to inform the arresting officer of the planned release if requested.
- In determining the referral, police must follow local law enforcement diversion guidelines for BH and agreed with the prosecuting authority with consultation with defense bar and disability community.
- An agreement to participate in treatment and support services shall not require stipulation to alleged facts regarding the criminal activity as prerequisite to participation.
- If the BH treatments is no longer appropriate the BH provider must inform the referring law enforcement agency and the original charges may be files and referred to the prosecutor.
- The police officer is immune from liability for good faith conduct under this section.

Section 13 adds a new section RCW 43.101 to require, beginning July 1, 2022, all law enforcement personnel required to complete basic law enforcement training under RCW 43.101.200 must receive training on law enforcement interaction with persons with SUDs, including referral to treatment and recovery services, as part of the basic law enforcement training. Adds requirement that the commission develop the trainings for training consultation with SUD advocacy organizations.

Training must consist of classroom or internet instruction and include:

- Proper procedures for making referrals to treatment and support services;
- The cause and nature of SUDs, including the role of trauma;
- The barriers to treatment engagement;
- How to identify indicators or SUD and appropriate responses to common situations;

HCA Fiscal Note

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- Conflict resolution and de-escalation techniques;
- Appropriate language usage when interacting with persons with an SUD;
- Alternatives to lethal force;
- Principles of recovery and the multiple pathways to recovery; and
- Community and state resources.

Training must also be made available to law enforcement agencies through electronic means for use at their convenience and determined by the internal training needs and resources of each agency.

Section 14 adds a new section to chapter 9.94A RCW, notwithstanding RCW 9.94A.640 or any other provision of this chapter, any person convicted of possession of a controlled substance or counterfeit substance before December 1, 2022, may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense.

Section 15 amends RCW 9.94A (2) adding sentencing vacation stipulations.

Section 16 adds a new section to chapter 9.96 RCW adding sentencing vacation stipulations.

Section 17 amends RCW 9.96.060 adding sentencing vacation stipulations.

Section 18 amends RCW 69.50.608 adding language regarding policies pertaining to personal use amounts and allowance for local jurisdictions to create additional diversion resources.

PART 4 – CONSTRUCTION

Section 19 adds a new section stating if any part of this act is held invalid, the remainder of the act is unaffected.

Section 20 adds a new section setting effective dates for sections 6 through 12 and 14 through 18 of this act take effect December 1, 2022.

II. B - Cash Receipts Impact

HCA assumes that the administrative requirements of this bill would be eligible for a 50 percent Federal Medical Assistance Percentage (FMAP).

| Cash Receipts | | | FY 2022 | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|-----------------------|-------------------------------|---|----------------|----------------|----------------|----------------|----------------|----------------|
| 001 | GF-Federal Medicaid Title XIX | C | 449,000 | 417,000 | 417,000 | 417,000 | 417,000 | 417,000 |
| Total | | | 449,000 | 417,000 | 417,000 | 417,000 | 417,000 | 417,000 |
| Biennial total | | | | 866,000 | | 834,000 | | 834,000 |

II. C - Expenditures

The fiscal impact is greater than \$50,000 but indeterminate to actual cost.

Service Impacts:

Section 2 requires HCA to develop a substance use recovery service plan. The results of that plan will likely lead to an increase in service costs. However, HCA is unable to provide an estimate of those costs without knowing the details of that plan or the recommendations from the committee established in Section 3. HCA would need to develop costs estimates in conjunction with the plan development. These estimates could either be submitted as part of a decision package for the 2022 supplemental budget or as part of the final report delivered to the governor and the legislature in December of 2021.

Administrative Impacts:

Developing the plan in Section 2 and supporting the committee in Section 3 will require additional staff time. HCA estimates \$1,732,000 (\$866,000 GF-State) and 6.5 Full Time Equivalent (FTE) will be required to lead coordination efforts and convene the multi-agency and stakeholder Substance Use

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Recovery Services Advisory Committee and to coordinate the Personal Use Drug Use Amount work group.

HCA assumes 1.0 FTE MPS2 will be required in the Office of Tribal Affairs (OTA) division to:

- Lead HCA's efforts with Tribal and Indian Health Care Providers (IHCP) engagement, from consultation to communication, and possible contracting. The bill expressly requires Medicaid fee-for-service programs be taken into account, which requires subject matter expertise from OTA. Coordination with other HCA divisions to address fiscal barriers will be required. And, OTA will need to work with Tribes, particularly those with their own criminal codes and diversion programs. In addition, the efforts described in the bill also require coordination with other OTA efforts, such as tribal care coordination agreements.

HCA assumes 1.0 FTE MPS3 will be required in the Medicaid Program Operations and Integrity (MPOI) division to:

- Section 2 (6) adopt rules and executed contracts with providers to implement the plan by December 1, 2022; because of this deadline more staffing is required.
- Section 4 directs payment for services that may not be in current contract scope requiring contract amendments;
- BH-ASOs, MCOs, and Private Insurance carriers will all have additional requirements in this bill, specifically around the timelines, staff time, and costs. The BH-ASOs will be especially impacted if they are expected to cover the Recovery Support Services or Supportive Services which are not billable under Medicaid.

HCA assumes 2.0 FTEs MPS3 will be required in the Clinical Quality and Care Transformation (CQCT) division to:

- Coordinating the Personal Drug Use Amount work group;
- Substantial support for the Substance Use Recovery Services Advisory Committee.

HCA assumes 1.0 FTE WMS2, 1.0 FTE MPS3, and .5 FTE AA2 will be required in the Division of Behavioral Health and Recovery (DBHR) to:

- Lead coordination efforts for the Substance Use Recovery Services Advisory Committee;
- Oversight of entire implementation plan and coordination efforts.

HCA's Expenditures by Fund:

| Expenditures | | | FY 2022 | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|-----------------------|-------------------------------|---|----------------|------------------|----------------|------------------|----------------|------------------|
| 001 | GF-State | 1 | 449,000 | 417,000 | 417,000 | 417,000 | 417,000 | 417,000 |
| 001 | GF-Federal Medicaid Title XIX | C | 449,000 | 417,000 | 417,000 | 417,000 | 417,000 | 417,000 |
| Total | | | 898,000 | 834,000 | 834,000 | 834,000 | 834,000 | 834,000 |
| Biennial Total | | | | 1,732,000 | | 1,668,000 | | 1,668,000 |

HCA's Expenditures by Object:

| Objects | | FY 2022 | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|--------------|--------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| A | Salaries & Wages | 540,000 | 540,000 | 540,000 | 540,000 | 540,000 | 540,000 |
| B | Employee Benefits | 198,000 | 198,000 | 198,000 | 198,000 | 198,000 | 198,000 |
| E | Goods and Services | 85,000 | 85,000 | 85,000 | 85,000 | 85,000 | 85,000 |
| G | Travel | 4,000 | 4,000 | 4,000 | 4,000 | 4,000 | 4,000 |
| J | Capital Outlays | 71,000 | 7,000 | 7,000 | 7,000 | 7,000 | 7,000 |
| Total | | 898,000 | 834,000 | 834,000 | 834,000 | 834,000 | 834,000 |

HCA Fiscal Note

Bill Number: 1499 HB

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HCA's Expenditures by FTE:

| Job title | Salary | FY 2022 | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|---------------------|----------------|------------|------------|------------|------------|------------|------------|
| MEDICAL PROGRAM S | 78,408 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| MEDICAL PROGRAM S | 86,484 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| MEDICAL PROGRAM S | 86,484 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |
| WMS BAND 2 | 92,859 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| MEDICAL PROGRAM S | 86,484 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| ADMINISTRATIVE ASSI | 45,504 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 |
| Total | 476,223 | 6.5 | 6.5 | 6.5 | 6.5 | 6.5 | 6.5 |

Part IV: Capital Budget Impact

None

Part V: New Rule Making Required

New rule making is required as follows:

Section 1(6) after submitting the Substance Use Recovery Services Plan, the authority shall adopt rules and enter into contracts with providers to implement the plan by December 1, 2022. In addition to seeking public comment under chapter 34.05 RCW, HCA must adopt rules in accordance with the recommendations of the Substance Use Recovery Services Advisory Committee as provided in subsection (5) of this section. The rules must be informed by existing diversion models that HCA administers in multiple jurisdictions in the state.

Section 5(1) requires HCA to adopt rules establishing maximum personal use amounts of controlled substances, counterfeit substances, and legend drugs known to be used by people for recreational or nonmedical and nonprescribed purposes.

Individual State Agency Fiscal Note

| | | |
|-----------------------------|----------------------------------------|--------------------------------------------|
| Bill Number: 1499 HB | Title: Sub. use disorder/health | Agency: 225-Washington State Patrol |
|-----------------------------|----------------------------------------|--------------------------------------------|

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated Operating Expenditures from:

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|------------------------------------------|---------|---------|-----------|-----------|-----------|
| FTE Staff Years | 7.0 | 7.0 | 7.0 | 7.0 | 7.0 |
| Account | | | | | |
| General Fund-State 001-1 | 871,385 | 795,550 | 1,666,935 | 1,591,100 | 1,591,100 |
| State Patrol Highway Account-State 081-1 | 21,662 | 21,662 | 43,324 | 43,324 | 43,324 |
| Total \$ | 893,047 | 817,212 | 1,710,259 | 1,634,424 | 1,634,424 |

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

| | | |
|----------------------------------------|-----------------------|------------------|
| Legislative Contact: Omeara Harrington | Phone: 360-786-7136 | Date: 02/04/2021 |
| Agency Preparation: Mario Buono | Phone: (360) 596-4072 | Date: 02/11/2021 |
| Agency Approval: Walter Hamilton | Phone: 360-596-4046 | Date: 02/11/2021 |
| OFM Review: Jenna Forty | Phone: (564) 999-1671 | Date: 02/11/2021 |

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

There will be a significant fiscal impact to the Washington State Patrol (WSP) as a result of this legislation.

Part 3 of this legislation eliminates criminal penalties for possession of personal use amounts of controlled substances, counterfeit substances, and legend drugs.

Section 13 - Beginning July 1, 2022 all law enforcement personnel required to complete basic law enforcement training must receive training on law enforcement interaction with persons with substance use disorders, including referral to treatment and recovery services, as part of the basic law enforcement training. In addition to incorporation into the basic law enforcement training, training must also be made available through electronic means for law enforcement agencies to use at their convenience and determined by internal training needs.

Section 14 - RCW 9.94A(1) states "Notwithstanding RCW 9.94A.640 or any other provision of this chapter, any person convicted of possession of a controlled substance or counterfeit substance before December 1, 2022, may apply to the sentencing court for vacation of the applicant's record of conviction for the offense, regardless of whether the person completed any applicable sentencing conditions or received a certificate of discharge under RCW 9.94A.637. This subsection applies to offenses under RCW 69.50.401, 69.50.4011, 69.50.4013, and their predecessor statutes."

Section 15 - RCW 9.94A.640 provides an exception to the restrictions against vacating a record listed in RCW 9.94A.640(2)(b) pursuant to section 14 of this act.

Section 16 - RCW 9.96 adds a section that states "Notwithstanding RCW 9.96.060 or any other provision of this chapter, any person convicted of possession of a controlled substance, counterfeit substance, or legend drug, or use of paraphernalia, before December 1, 2022, may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense, regardless of whether the person completed any applicable sentencing conditions. This subsection applies to offenses under RCW 69.50.4011, 69.50.4013, 69.50.4014, 69.50.412(1), 69.41.030, and their predecessor statutes, including but not limited to RCW 69.50.401, and any offense under an equivalent municipal ordinance."

Section 17 - RCW 9.96.060 is amended to allow convictions under section 16 to be vacated.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

There could be an indeterminate impact to the cash receipts of the WSP. It is possible that the elimination of criminal penalties for possession of personal use amounts of controlled substances could negatively impact federal funding options for drug tasks forces. At this time, it is unknown what this impact might be.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

There are currently 498,209 drug conviction charges in WASIS that would qualify to be vacated under this bill. We anticipate there would be great interest by individuals convicted of these offenses to have their convictions vacated. For the purposes of this fiscal note estimate, we assume 10% of the qualifying charges (or roughly 49,821 drug conviction charges) will be vacated per year for the next 10 years. This results in an additional workload impact of 8.6 FTEs for ten years to vacate all qualifying drug convictions.

Due to the elimination of criminal penalties for possession of personal use amounts of controlled substances, we estimate we will no longer receive around 5,515 drug related arrests per year. This results in a reduced workload impact of 1.6 FTEs per year.

The combined result of vacating drug convictions and receiving less drug related arrests is a net workload impact of 7.0 FTEs.

We also assume roughly six additional hours of training will need to be provided to each cadet class to meet the requirements in Section 13. We estimate this cost at around \$17,000 per year.

It is possible that changes in possession laws may indirectly result in an increase in instances of impaired driving violations. This may result in an increased workload for traffic enforcement troopers, the Impaired Driving Section, and the State Toxicology Laboratory. However, we are unable to estimate the potential impact at this time.

We base estimated salary expenditures on current levels for the positions requested per published salary schedules, plus any applicable incentive or assignment pay. We compute estimated benefits expenditures based on federal or state mandated rates plus state provided amounts for health insurance and workers' compensation insurance. We assume that any increases in these rates or amounts will be covered by legislation establishing the increase. We compute estimated support expenditures such as supplies and materials, communications, computer costs (hardware and software), vehicle and vehicle operating costs, among others, using average costs to support agency FTEs. We adjust the estimated support costs to reflect the needs of individual divisions or positions within the WSP. We base our estimate for agency indirect costs on the approved federal indirect cost rate of 29.31 percent. We apply this indirect cost rate percentage to all categories of expenditure with only two exceptions: capital equipment and expenditures after \$25,000 of each projected contract. Indirect costs include, but are not limited to, computer and telecommunications support, payroll processing, vendor payments, general accounting, procurement administration, inventory control, and human resource management.

The funding allocation for this estimate is based on the results of the Joint Legislative Audit and Review Committee cost allocation model approved by both the Transportation and the Omnibus Budget Committees in the 2020 Supplemental Budget. The model analyzes costs and relevant activities (hours, transactions, type of enforcement, etc.) of WSP organizations funded by two or more sources to ensure a consistent and fair use of state resources.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

| Account | Account Title | Type | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|-----------------|------------------------------|-------|----------------|----------------|------------------|------------------|------------------|
| 001-1 | General Fund | State | 871,385 | 795,550 | 1,666,935 | 1,591,100 | 1,591,100 |
| 081-1 | State Patrol Highway Account | State | 21,662 | 21,662 | 43,324 | 43,324 | 43,324 |
| Total \$ | | | 893,047 | 817,212 | 1,710,259 | 1,634,424 | 1,634,424 |

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|--------------------------------------|----------------|----------------|------------------|------------------|------------------|
| FTE Staff Years | 7.0 | 7.0 | 7.0 | 7.0 | 7.0 |
| A-Salaries and Wages | 402,451 | 402,451 | 804,902 | 804,902 | 804,902 |
| B-Employee Benefits | 170,676 | 170,676 | 341,352 | 341,352 | 341,352 |
| C-Professional Service Contracts | | | | | |
| E-Goods and Other Services | 46,564 | 38,669 | 85,233 | 77,338 | 77,338 |
| G-Travel | 8,400 | 8,400 | 16,800 | 16,800 | 16,800 |
| J-Capital Outlays | 78,400 | 12,775 | 91,175 | 25,550 | 25,550 |
| M-Inter Agency/Fund Transfers | | | | | |
| N-Grants, Benefits & Client Services | | | | | |
| P-Debt Service | | | | | |
| S-Interagency Reimbursements | | | | | |
| T-Intra-Agency Reimbursements | | | | | |
| 9-Indirect Costs | 186,556 | 184,241 | 370,797 | 368,482 | 368,482 |
| Total \$ | 893,047 | 817,212 | 1,710,259 | 1,634,424 | 1,634,424 |

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

| Job Classification | Salary | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---------------------------------|--------|------------|------------|------------|------------|------------|
| Correctional Records Supervisor | 65,928 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| Correctional Records Technician | 54,108 | 6.0 | 6.0 | 6.0 | 6.0 | 6.0 |
| Total FTEs | | 7.0 | 7.0 | 7.0 | 7.0 | 7.0 |

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

Individual State Agency Fiscal Note

| | | |
|-----------------------------|----------------------------------------|---------------------------------------------------------|
| Bill Number: 1499 HB | Title: Sub. use disorder/health | Agency: 227-Criminal Justice Training Commission |
|-----------------------------|----------------------------------------|---------------------------------------------------------|

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|-------------------------------|---------|---------|---------|---------|---------|
| Account | | | | | |
| General Fund-State 001-1 | 63,000 | 0 | 63,000 | 0 | 0 |
| Total \$ | 63,000 | 0 | 63,000 | 0 | 0 |

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

| | | |
|----------------------------------------|-----------------------|------------------|
| Legislative Contact: Omeara Harrington | Phone: 360-786-7136 | Date: 02/04/2021 |
| Agency Preparation: Brian Elliott | Phone: 206-835-7337 | Date: 02/11/2021 |
| Agency Approval: Brian Elliott | Phone: 206-835-7337 | Date: 02/11/2021 |
| OFM Review: Cynthia Hollimon | Phone: (360) 810-1979 | Date: 02/11/2021 |

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 3(2) identifies the Criminal Justice Training Commission as having a representative on the substance use recovery services advisory committee.

Section 13(1) states beginning July 1, 2022, all law enforcement personnel required to complete basic law enforcement training under RCW 43.101.200 must receive training on law enforcement interaction with persons with substance use disorders, including referral to treatment and recovery services, as part of the basic law enforcement academy.

Section 13(2) identifies topics core instruction must include.

Section 13(3) states the training must be made available to law enforcement agencies, through electronic means, for use at their convenience and determined by internal training needs and resources of each agency.

The Criminal Justice Training Commission will need to develop curriculum and integrate the required training into the Basic Law Enforcement Academy curriculum. In addition, an online course will need to be created and made available to all law enforcement officers from throughout the state.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

This bill has no cash receipt impact.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The Criminal Justice Training Commission estimates the cost to create and integrate the required training into the Basic Law Enforcement Academy and create an online course to be made available to all law enforcement officers from throughout the state is \$50,000.

Administrative overhead at 25% for IT, HR, fiscal, and administrative support is \$12,500.

It is assumed the curricula will be developed in FY 2022 in order to meet the 7/1/2022 deadline.

FY 2022 total rounded to nearest thousand is \$63,000.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

| Account | Account Title | Type | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|-----------------|---------------|-------|---------|---------|---------|---------|---------|
| 001-1 | General Fund | State | 63,000 | 0 | 63,000 | 0 | 0 |
| Total \$ | | | 63,000 | 0 | 63,000 | 0 | 0 |

III. B - Expenditures by Object Or Purpose

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|--------------------------------------|---------------|----------|---------------|----------|----------|
| FTE Staff Years | | | | | |
| A-Salaries and Wages | | | | | |
| B-Employee Benefits | | | | | |
| C-Professional Service Contracts | | | | | |
| E-Goods and Other Services | 50,000 | | 50,000 | | |
| G-Travel | | | | | |
| J-Capital Outlays | | | | | |
| M-Inter Agency/Fund Transfers | | | | | |
| N-Grants, Benefits & Client Services | | | | | |
| P-Debt Service | | | | | |
| S-Interagency Reimbursements | | | | | |
| T-Intra-Agency Reimbursements | | | | | |
| 9-9 Administrative overhead | 13,000 | | 13,000 | | |
| Total \$ | 63,000 | 0 | 63,000 | 0 | 0 |

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

This bill has no capital budget impact.

Part V: New Rule Making Required

Individual State Agency Fiscal Note

| | | |
|-----------------------------|----------------------------------------|-----------------------------------------|
| Bill Number: 1499 HB | Title: Sub. use disorder/health | Agency: 303-Department of Health |
|-----------------------------|----------------------------------------|-----------------------------------------|

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|-------------------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years | 0.2 | 0.0 | 0.1 | 0.0 | 0.0 |
| Account | | | | | |
| Health Professions Account-State 02G-1 | 26,000 | 3,000 | 29,000 | 2,000 | 2,000 |
| Total \$ | 26,000 | 3,000 | 29,000 | 2,000 | 2,000 |

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

| | | |
|----------------------------------------|-----------------------|------------------|
| Legislative Contact: Omeara Harrington | Phone: 360-786-7136 | Date: 02/04/2021 |
| Agency Preparation: Donna Compton | Phone: 360-236-4538 | Date: 02/09/2021 |
| Agency Approval: Carl Yanagida | Phone: 360-789-4832 | Date: 02/09/2021 |
| OFM Review: Danielle Cruver | Phone: (360) 522-3022 | Date: 02/10/2021 |

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 5: Adds a new section to chapter 71.24 RCW (Community behavioral health services act) requiring the Health Care Authority (HCA), in consultation with the Department of Health (department) and the Pharmacy Quality Assurance Commission (commission), to adopt rules by September 1, 2022 establishing maximum personal use amounts of controlled substances, counterfeit substances, and legend drugs known to be used by people for recreational or nonmedical and nonprescribed purposes. When the committee learns of substances for which a maximum personal use amount has not been established, HCA must adopt a maximum personal use amount for that substance within one year. When adopting the rules under this section, HCA must convene and consult with a work group, to include experts relevant to setting threshold amounts of controlled substances.

Section 7: RCW 69.50.4011 (Prohibited acts: A—Penalties.) is amended to exclude possession of personal use amounts of a counterfeit substance as a criminal offense.

Section 8: RCW 69.50.4013 (Possession of controlled substance—Penalty—Possession of useable marijuana, marijuana concentrates, or marijuana-infused products—Delivery.) is amended to decriminalize possession of personal use amounts of a controlled substance.

Section 9: RCW 69.50.4014 (Possession of forty grams or less of marijuana—Penalty.) is amended to exclude possession of a personal use amount of marijuana as a misdemeanor criminal offense.

Section 10: RCW 69.50.412 (Prohibited acts: E—Penalties.) is amended to decriminalize possession of drug paraphernalia used with a personal use amount of a controlled substance.

Section 11: RCW 69.41.030 (Sale, delivery, or possession of legend drug without prescription or order prohibited—Exceptions—Penalty.) is amended to decriminalize possession of a personal use amount of a legend drug.

Section 14: A new section is added to chapter 9.94A RCW (Sentencing reform act of 1981) providing that any person convicted of possession of a controlled substance or counterfeit substance before December 1, 2022 may apply to the sentencing court for a vacation of the conviction. For all purposes, including responding to questions on employment applications, a person whose conviction has been vacated may state that the person has never been convicted of that crime, and a conviction vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies.

Section 16: A new section is added to chapter 9.96 RCW (Restoration of civil rights) providing that any person convicted of possession of a controlled substance, counterfeit substance, or legend drug, or use of paraphernalia, before December 1, 2022, may apply to the sentencing court for a vacation of the conviction. For all purposes, including responding to questions on employment applications, a person whose conviction has been vacated may state that the person has never been convicted of that crime, and a conviction vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies.

Section 20: Establishes an effective date of December 1, 2022 for sections 6 through 12 and 14 through 18.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

Current law RCW 43.70.250 (License fees for professions, occupations, and businesses.) requires the department to charge a fee to generate sufficient revenue to fully support the costs of administering its pharmacy licensing activities. The Department of Health (department) does not anticipate the need to increase licensing fees to support the changes proposed in this bill. The department will monitor the program fund balance and adjust fees over a six (6) year period to ensure that fees are sufficient to cover all program expenditures.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Consult HCA

Section 5: The department and commission will provide consultation to HCA in the adoption of rules establishing maximum personal use amounts of controlled substances, counterfeit substances, and legend drugs known to be used by people for recreational or nonmedical and nonprescribed purposes. The department assumes this consultation will require six meetings with one commission member participating, along with staff support.

Ongoing, HCA must adopt a maximum personal use amount for any newly discovered substance within one year. The department assumes one commission member will be part of the work group HCA convenes and consults when adopting the rules under this section, requiring two meetings per year and staff support.

Costs for providing consultation to HCA include commission member, staff, and associated expenses (including goods and services, travel, intra-agency, and indirect charges). In fiscal year 2022, costs will be 0.10 FTE and \$9,000 (02G-1). In fiscal year 2023, costs will be \$3,000 (02G-1). Starting in FY 2024, ongoing costs will be \$1,000 each year (02G-1).

Rulemaking

Sections 7, 8, 9, 10, & 11: The department will adopt and/or amend rules to align with the statutory changes in chapter 69.41 RCW and 69.50 RCW. The department anticipates this will be a standard rulemaking process taking approximately 12 months to complete. Rulemaking will include two stakeholder meetings as well as one formal hearing which allows for stakeholder participation.

Costs for rulemaking include staff, associated expenses (including goods and services, travel, intra-agency, and indirect charges), and Office of Attorney General support in the amount of \$4,100. In fiscal year 2022, one-time costs for rulemaking will be 0.20 FTE and \$17,000 (02G-1).

Discipline

Sections 14 and 16: The department assumes applicants for health profession licenses who would have been denied, or granted a credential with conditions, due to substance related convictions may be granted a credential outright under this bill. This may reduce costs at the application review phase but could increase future enforcement costs if substance use issues arise while the licensee is practicing. The fiscal impact to discipline is indeterminate.

TOTAL COSTS TO IMPLEMENT THIS BILL:

FY 2022: 0.20 FTE and \$26,000 (02G-1)
 FY 2023: \$3,000 (02G-1)
 FY 2024 through FY 2027: \$1,000 (02G-1)

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

| Account | Account Title | Type | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|-----------------|----------------------------|-------|---------|---------|---------|---------|---------|
| 02G-1 | Health Professions Account | State | 26,000 | 3,000 | 29,000 | 2,000 | 2,000 |
| Total \$ | | | 26,000 | 3,000 | 29,000 | 2,000 | 2,000 |

III. B - Expenditures by Object Or Purpose

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|-------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years | 0.2 | | 0.1 | | |
| A-Salaries and Wages | 15,000 | 2,000 | 17,000 | 2,000 | 2,000 |
| B-Employee Benefits | 5,000 | 1,000 | 6,000 | | |
| E-Goods and Other Services | 5,000 | | 5,000 | | |
| T-Intra-Agency Reimbursements | 1,000 | | 1,000 | | |
| Total \$ | 26,000 | 3,000 | 29,000 | 2,000 | 2,000 |

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

| Job Classification | Salary | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|------------------------------|---------|---------|---------|---------|---------|---------|
| HEALTH SERVICES CONSULTANT 4 | 80,292 | 0.1 | | 0.1 | | |
| WMS03 | 125,268 | 0.1 | | 0.1 | | |
| Total FTEs | | 0.2 | | 0.1 | | 0.0 |

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Sections 5, 7, 8, 9, 10, and 11: The commission will adopt rules in chapter 246-945 WAC (Pharmacy Quality Assurance

Commission) as necessary to implement this bill.

Individual State Agency Fiscal Note

| | | |
|-----------------------------|----------------------------------------|----------------------------------------------|
| Bill Number: 1499 HB | Title: Sub. use disorder/health | Agency: 310-Department of Corrections |
|-----------------------------|----------------------------------------|----------------------------------------------|

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

| | | |
|----------------------------------------|-----------------------|------------------|
| Legislative Contact: Omeara Harrington | Phone: 360-786-7136 | Date: 02/04/2021 |
| Agency Preparation: Nicole Trexler | Phone: 360-725-8483 | Date: 02/12/2021 |
| Agency Approval: Michael Steenhout | Phone: 360-725-8270 | Date: 02/12/2021 |
| OFM Review: Cynthia Hollimon | Phone: (360) 810-1979 | Date: 02/15/2021 |

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill amends RCW's to provide behavioral health response in lieu of criminal offense charges to individuals in possession of personal use amounts of controlled substances as well as allowing individual within the Department of Corrections (DOC) to petition to have their sentence vacated.

Section 4 adds a new section to RCW 41.05 that establishes the implementation of statewide substance use recovery services plan, under section 2, and how it will be funded. It states that outreach and engagement services as well as recovery support that are not reimbursable through insurance will be funded through a combination of sources to include any savings captured from reduced expenses from DOC, resulting from this act.

Section 5 is added to define "personal use amount" as that stated in RCW 69.50.101.

Section 6 amends RCW 69.50.101 by establishing a definition for "personal use amount" which is the maximum amount of a particular controlled substance, legend drug, or counterfeit substance that Health Care Authority (Authority) has determined to be consistent with personal, non-prescribed use patterns for people with substance abuse disorder.

Section 7 amends RCW 69.50.4011 by adding it unlawful to create or deliver a counterfeit substance. Possession of a counterfeit substance is also unlawful in excess of the applicable personal use amount.

Section 8 amends RCW 69.50.4013, making it unlawful for any person to possess a controlled substance in excess of the applicable personal use amount, unless it is a prescription or under the order of a practitioner, under professional practice.

Section 11 amends RCW 69.41.030 by making it unlawful to sell or deliver any legend drug and adds that possession of any legend drug in excess of an applicable person use amount, except prescriptions under the order of a practitioner authorized to prescribe drugs, is also prohibited.

Section 14 is added to RCW 9.94A allowing any person convicted of possession of a controlled or counterfeit substance, before December 1, 2022, to apply to sentencing court In order to vacate the applicable offenses from the applicant's record, regardless of whether the person completed any applicable sentencing conditions or received a certificate of discharge under RCW 9.94A.637.

Section 15 amends RCW 9.94A.640 to add an exemption to Section 14. This would not allow a person convicted, under the referenced RCW, to have their record cleared if the following offenses are:

- Criminal charges against the person pending in another state or federal court.
- Violent, as defined in 9.94A.030, or against other individuals as defined in RCW 43.43.830.
- A class B felony and the individual has been convicted of a new crime in Washington, another state or in federal court, 10 years prior to the application for vacation.
- A class C felony and the individual has been convicted of a new crime in Washington, another state or in federal court, 5 years prior to the application for vacation.
- A class B felony and less than 10 years have passed since the later of the applicant's release from community custody, full and partial confinement or the sentencing date.

- A class C felony and less than 5 years have passed since the later of the applicant's release from community custody, full and partial confinement or the sentencing date; and
- A felony described in RCW 46.61.502 or 46.61.504.

Section 16 is added to RCW 9.96 allowing any person convicted of possession of a controlled or counterfeit substance, before December 1, 2022, to apply to sentencing court In order to vacate the applicable offenses from the applicant's record, regardless of whether the person completed any applicable sentencing conditions or received a certificate of discharge under RCW 9.94A.637.

Section 19 amends RCW 69.50.608 by adding established policies pertaining to person use amounts as provided in section 5 of this act.

Section 20 is a new section that states sections 6 through 12 and 14 through 18 of this act take effect December 1, 2022. The effective date is assumed 90 days after adjournment of session in which this bill is passed for all other applicable sections.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The fiscal impact of this bill is indeterminate, assumed to be greater than \$50,000 per Fiscal Year (FY).

This bill would provide a behavioral health system response in lieu of criminal offense charges to individuals who are caught, or have been charged, with possession of personal use amounts of controlled and counterfeit substances as well as legend drugs.

The DOC would likely see a reduction of caseload. In addition, there would possible effects to Substance Abuse Recovery services delivered in prison as well as community correction services to the population but the impact is currently unknown.

The Caseload Forecast Council (CFC) has no information concerning how many sentences for the felony offenses amended by the bill will be considered as personal use amounts and not qualify for criminal sentencing. However, as felony offenses, ranging from unranked to ranked Serious Level II on the Drug Grid for adult convictions, would result in a reduced need for prison beds and community custody supervision.

The provisions of this bill would allow convictions of possession of a controlled or counterfeit substance to be vacated and may result in lower criminal history scores if the person has a subsequent felony offense. This may result in reduced need for prison beds.

While DOC has individuals in custody with charges for possession of a controlled substance, this bill would allow those who meet the specific guidelines in sections 14 and 16 to petition for a vacation of their sentence. Currently, DOC has 1,704 active individuals with at least one count of drug possession or possession of controlled substance. However, 579 of these individuals have an active offense within facility population, while 193 of the population have possession of a controlled substance listed as their worst offense. We are unable to

determine the impact this would have on DOC as we cannot predict the outcomes of each petition and therefore, could not specifically determine the impact it would have on prison beds.

The Department of Corrections (DOC) assumes this bill would likely result in an Average Daily Population (ADP) decrease, although the impact cannot be reliably estimated. Therefore, the fiscal impact is indeterminate, assumed to be greater than \$50,000 per FY.

ASSUMPTIONS

We assume additional impacts will result when ADP caseload changes in either prison or community, and resources will be necessary. The DOC will “true up” our fiscal impact in subsequent budget submittals should the legislation be enacted into session law.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

| | |
|-----------------------------|----------------------------------------|
| Bill Number: 1499 HB | Title: Sub. use disorder/health |
|-----------------------------|----------------------------------------|

Part I: Jurisdiction—Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities: Indeterminate expenditures due to changes to felony charges and law enforcement training and process changes
- Counties: Indeterminate expenditures due to changes to felony charges, law enforcement training and process changes, additional vacation of sentences, work group participation, and provision of additional behavioral health services.
- Special Districts: Indeterminate expenditures due to changes to felony charges and law enforcement training and process changes
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: Number of additional individuals referred to behavioral health services; number of people released from incarceration; number of people not charged for possession of controlled or counterfeit substances; number of records of individuals vacated; work group participation requirements; and the number of law enforcement officers who would take the additional training provided by CJTC.

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Part III: Preparation and Approval

| | | |
|-------------------------------------------|-----------------------|------------------|
| Fiscal Note Analyst: Rebecca Duncan | Phone: 360-725-5040 | Date: 02/12/2021 |
| Leg. Committee Contact: Omeara Harrington | Phone: 360-786-7136 | Date: 02/04/2021 |
| Agency Approval: Alice Zillah | Phone: 360-725-5035 | Date: 02/12/2021 |
| OFM Review: Cynthia Hollimon | Phone: (360) 810-1979 | Date: 02/12/2021 |

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

Section 2 would require the Health Care Authority (HCA) to establish a substance use recovery services plan to implement measures to assist persons with substance use disorder in accessing treatment and recovery support services that are low-barrier, person-centered, informed by people with lived experience, and culturally and linguistically appropriate. The plan would need to articulate the manner in which continual, rapid, and widespread access to a comprehensive continuum of care must be provided to all persons with substance use disorder regardless of the point at which they present within the continuum of care.

Section 3 would require the HCA to establish the substance use recovery services advisory committee to advise the authority in the development and implementation of the substance use recovery services plan under section 2 of this act. This advisory committee would include several local government representatives.

Section 4 outline the process of funding of the implementation of the statewide substance use recovery services plan established under section 2 of this act.

Section 5 would establish a work group to develop and define personal use amounts of controlled substances and rules relating to the section. This work group would include public defenders, prosecutors, and law enforcement.

Section 6 (Definitions for Uniform Controlled Substances Act) would be changed to include the term “Personal use amount” which means the maximum amount of a particular controlled substance, legend drug, or counterfeit substance that the authority (Washington Health Care Authority) has determined to be consistent with personal, nonprescribed use patterns of the people with substance us disorder, as provided under section 5 of this legislation.

Sections 7 and 8 amend RCWs 69.50.4011 (Counterfeit substances—Penalties), 69.50.4013 (Possession of controlled substance—Penalty—Possession of useable marijuana, marijuana concentrates, or marijuana-infused products—Delivery) to make possession of a counterfeit or controlled substances unlawful only if said possession is in excess of the applicable personal use amount.

Section 9 amends RCW 69.50.4014 (Possession of forty grams or less of marijuana—Penalty) to make possession of forty grams or less of marijuana unlawful only if said possession is in excess of the applicable personal use amount or is not otherwise authorized by RCW Chapter 69.50.

Section 10 amends RCW 69.50.412 (Prohibited acts: E—Penalties) to make usage of drug paraphernalia unlawful unless said paraphernalia is used to prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a personal use amount of a controlled substance other than marijuana. An allowance for paraphernalia usage concerning marijuana is already codified in the current language of this statute.

Section 11 amends RCW 69.41.030 (Sale, delivery, or possession of legend drug without prescription or order prohibited—Exceptions—Penalty) to make possession of any legend drug unlawful only if said possession is in excess of the applicable personal use amount. This personal use amount shall have its meaning provided by RCW 69.50.101.

Section 12 amends RCW 10.31.110 (Alternatives to arrest—Individuals with mental disorders) to expand the list of actions an arresting officer is authorized and encouraged to undertake when they have reasonable cause to believe the individual has committed acts constituting a crime and said individual is known to suffer from a mental disorder including substance use disorder. The newly authorized and encourage actions are:

- Refer the individual to youth, adult, or geriatric mobile crisis response services as appropriate
 - Refer the individual to an available on-demand provider responsible to receive referrals in lieu of legal system involvement
- Lastly, Section 12 amends RCW 10.31.110 regarding references to behavioral and community health providers.

Section 13 adds a new section to RCW 43.101 (Criminal justice training commission—Education and training standards boards).

Section 13 (1) requires that by July 1, 2022, all law enforcement personnel required to complete basic law enforcement training per RCW 43.101.200 must receive training on law enforcement interaction with persons with substance use disorders as part of the basic law enforcement training.

Section 13 (3) also requires that the aforementioned training be made available to law enforcement agencies, through electronic means, for use at their convenience and determined by the internal training needs and resources of each agency.

Section 14 adds a new section to RCW 9.94A (Sentencing Reform Act of 1981). This section allows, notwithstanding RCW 9.94A.640 or any other provision of RCW 9.94A, any person convicted of possession of a controlled or counterfeit substance before December 1, 2022 to apply to the sentencing court for vacation of the applicant's record of conviction for the offense, regardless of whether or not they have completed any applicable sentencing conditions or received a certificate of discharge. This allowance applies to offenses under RCW 69.50.401, 69.50.4011, 69.50.4013, and their predecessor statutes. Any conviction vacated under this section may not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction and the person must be released from all penalties and disabilities resulting from the offense.

Section 15 amends RCW 9.94A.640 (Vacation of offender's record of conviction) to grant the ability for vacation of record as granted in Section 14 to offenders who have already been discharged under RCW 9.94A.637 (Discharge upon completion of sentence—Certificate of discharge—Issuance, effect of no-contact order—Obligations, counseling after discharge).

Sections 16 adds a new chapter to RCW 9.96 (Restoration of civil rights) to reflect the changes in eligibility for vacation of records as provided by Sections 14 and 15.

Section 17 amends RCW 9.96.060 (Vacating records of conviction for misdemeanor and gross misdemeanor offenses) to reflect vacation of records as referenced in Section 16 of this legislation.

Section 18 adds a new chapter to RCW 9.96 (Restoration of civil rights) to reflect the changes in eligibility for vacation of records as provided by Sections 14 and 15.

Section 19 would provide that if any section is found invalid, the rest of the bill would still be valid.

Section 20 would provide that sections 6-12 and 14 are effective December 1, 2022.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

This legislation would have indeterminate impacts on local government expenditures.

WORKGROUP PARTICIPATION

This bill would establish a workgroup to develop and define personal use amounts of controlled substances and rules relating to the section. This workgroup would include local government representatives including public defenders, prosecutors, and law enforcement. The number of times the workgroup would convene, the location or venue of the workgroup, and the particular representatives from local governments cannot be known at this time. Therefore, the impacts to expenditures from this section would be indeterminate.

IMPACTS TO BEHAVIORAL HEALTH ADMINISTRATIVE SERVICES ORGANIZATIONS (BHASOs)

This bill, particularly section 12, would increase the requirement for provision of services for BHASOs. This bill would expand options for law enforcement officers to refer individuals to behavioral health care, including mobile crisis response services and an on-demand behavioral health provider. The Washington State Association of Counties (WSAC) assumes that this would require BHASOs to bolster and expand their current services to be prepared for an influx of additional clients. This may include staffing additional mobile crisis response units and support staff, as well as expanding the current on-call provider network. Because the additional number of individuals that would be referred to local behavioral health services due to this bill is unknown, the impact on local government expenditures is indeterminate.

JAIL AND JUVENILE FACILITY BED DEMANDS

Reduction in Number of Future Sentences:

Currently, it is infeasible to reliably estimate how many instances of previously considered felony offenses amended by the bill would now be considered personal use amounts under the provisions of the bill and not qualify for criminal sentencing. However, any reductions in sentences for these offenses would result in a reduced need for local juvenile facility beds as well as county jail beds. For reference, the 2021 Local Government Fiscal Note Program Criminal Justice Cost Matrix estimates the cost of an occupied county jail bed is \$114 per day. Additionally, according to a 2020 report by the Justice Policy Institute, the cost to incarcerate a juvenile in the state of Washington is about \$240 per day.

Vacation of Current Sentences:

This legislation would allow those convicted of possession of a controlled or counterfeit substance before December 1, 2022 to apply for vacation of their record of conviction for the offense regardless of having completed their applicable sentencing conditions or having

received a certificate of discharge. Section 14 (2) in part states that once a conviction is vacated the person must be released from all penalties resulting from the offense. Therefore, it is possible offenders currently confined within county jails may have their terms of confinement ended due to a vacation of an applicable offense. This would lower the demand for county jail beds. However, the exact number of sentence vacations that may occur is unknown at this time and therefore potential cost savings are indeterminate.

In addition, prosecutors anticipate opening vacation of record to those with a conviction for simple possession would put additional strain on the courts, including prosecutors and defenders. The exact number of individuals who would choose to apply and receive vacation of their records is unknown. However, the Washington Association of Prosecuting Attorneys (WAPA) found that in 2020 there were between 4,500 and 5,000 convictions for possession of a controlled or counterfeit substance. If even half of those convicted applied for vacation of their record, there would be thousands of hearings resulting in additional costs for local governments.

Lowering of Criminal History Scores:

The provisions of the bill that allow convictions of Possession of a Controlled or Counterfeit Substance to be vacated may result in lower criminal history scores if the person has a subsequent felony offense. This may result in reduced need for local juvenile facility beds or county jail beds.

CRIMINAL PROCEEDING COSTS

A change in the legality of possession of controlled or counterfeit substances and legend drugs as well as the usage of drug paraphernalia when concerning applicable personal use amounts may cause savings to be realized by law enforcement agencies and the prosecution and defense aspects of the criminal justice system.

For reference, according to the 2021 Local Government Fiscal Note Program Criminal Justice Cost Matrix, drug/narcotics violations ranging from gross misdemeanors to class B felonies are estimated to cost about \$6,200 per offense. \$1,200 of this figure comes from law enforcement response, investigation, evidence maintenance, and trial participation while the other \$5,000 can be attributed to public prosecuting attorneys and court-appointed public defenders.

According to the 2019 Crime in Washington Report, in 2019 there were 10,054 drug equipment violations and 20,578 drug/narcotics violations for a total of 30,632 violations. It is unknown how many of these violations would no longer be unlawful due to the changes in statutes made by this legislation. Furthermore, it is possible a proportion of the aforementioned law enforcement costs will still be expended as officers' investigations of potentially unlawful possession will still occur.

TRAINING COSTS

Section 13 concerns the training that the Washington Criminal Justice Training Commission (CJTC) must develop and require in the basic law enforcement training academy (BLEA) by July 1, 2022. It is assumed this new requirement in the academy will be included in the fees that law enforcement agencies must already pay for their employees to participate in a BLEA class. The CJTC does not anticipate any additional cost to local governments as a result of making changes to the current training curricula.

Section 13 (3) is assumed to mean that the same training being required in the BLEA will be made available to law enforcement agencies for all currently employed officers. However, Section 13 (3) states said training is for law enforcement agencies' "use at their convenience" and therefore it is assumed it will not result in additional costs for law enforcement agencies. CJTC anticipates they would provide access to a two-hour online course to cover any topics that are not already covered in required crisis intervention training or training required by the Law Enforcement Training and Community Safety Act. The number of officers who would participate in this additional two-hour training is unknown.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

This bill would have no impact on local government revenues.

SOURCES:

2019 Crime in Washington Report
2021 Local Government Fiscal Note Program Criminal Justice Cost Matrix
Justice Policy Institute report "Sticker Shock: The Cost of Youth Incarceration"
<http://www.justicepolicy.org/research/12928>
Washington Caseload Forecast Council
Washington State Association of Counties
Washington State Association of Local Public Health Officials
Washington Association of Prosecuting Attorneys

