

Multiple Agency Fiscal Note Summary

Bill Number: 1499 S HB	Title: Sub. use disorder/health
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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	992,000	0	0	956,000	0	0	956,000
Washington State Patrol	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	992,000	0	0	956,000	0	0	956,000

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	7.5	993,000	993,000	1,985,000	7.5	956,000	956,000	1,912,000	7.5	956,000	956,000	1,912,000
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	Non-zero but indeterminate cost and/or savings. Please see discussion.											
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	35,000	.0	0	0	2,000	.0	0	0	2,000
Department of Corrections	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Total \$	7.6	1,056,000	1,056,000	2,083,000	7.5	956,000	956,000	1,914,000	7.5	956,000	956,000	1,914,000

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 2/25/2021
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Judicial Impact Fiscal Note

Bill Number: 1499 S HB	Title: Sub. use disorder/health	Agency: 055-Administrative Office of the Courts
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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: 02/15/2021
Agency Preparation: Pam Kelly	Phone: 360-705-5318	Date: 02/17/2021
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 02/17/2021
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/18/2021

166,188.00

Request # 1499 SHB-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

166,188.00

Form FN (Rev 1/00)

Part II: Narrative Explanation

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

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.

1499 SHB would remove the language allowing for vacation of prior drug possession charges written in Sections 14, 15, and 16 of the original bill 1499 HB.

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 6(8)(kk) – Would define personal use amount to mean the maximum amount of a controlled substance that the authority has determined to be personal, non-prescribed use patterns of people with substance use disorders.

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.

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 S HB	Title: Sub. use disorder/health	Agency: 101-Caseload Forecast Council
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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: 02/15/2021
Agency Preparation: Clela Steelhammer	Phone: 360-664-9381	Date: 02/16/2021
Agency Approval: Clela Steelhammer	Phone: 360-664-9381	Date: 02/16/2021
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/18/2021

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

SHB 1499

PROVIDING BEHAVIORAL HEALTH SYSTEM RESPONSES TO INDIVIDUALS WITH SUBSTANCE USE DISORDER

**101 – Caseload Forecast Council
February 16, 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; to submit a readiness report by November 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 by April 1, 2023. Additionally, requires the Director to convene and consult a work group when adopting the rules under the section.

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 Amends RCW 69.50.608, State Preemption, by including a reference to personal use amounts as provided under Section 5 of the act.
- Section 15 Adds a new section to chapter 69.50 RCW that states nothing in the act prohibits a public or private employer from establishing and enforcing employment or workplace policies relating to personal use amounts of controlled or counterfeit substances.
- Section 16 Establishes a null and void clause.
- Section 17 Sets effective dates for Sections 6-12, 14, and 15, as July 1, 2023.

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.

Individual State Agency Fiscal Note

Bill Number: 1499 S HB	Title: Sub. use disorder/health	Agency: 107-Washington State Health Care Authority
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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	514,000	478,000	992,000	956,000	956,000
Total \$	514,000	478,000	992,000	956,000	956,000

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	7.5	7.5	7.5	7.5	7.5
Account					
General Fund-State 001-1	515,000	478,000	993,000	956,000	956,000
General Fund-Federal 001-2	514,000	478,000	992,000	956,000	956,000
Total \$	1,029,000	956,000	1,985,000	1,912,000	1,912,000

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: 02/15/2021
Agency Preparation: Cari Tikka	Phone: 360-725-1181	Date: 02/18/2021
Agency Approval: Catrina Lucero	Phone: 360-725-7192	Date: 02/18/2021
OFM Review: Bryan Way	Phone: (360) 522-3976	Date: 02/19/2021

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	515,000	478,000	993,000	956,000	956,000
001-2	General Fund	Federal	514,000	478,000	992,000	956,000	956,000
Total \$			1,029,000	956,000	1,985,000	1,912,000	1,912,000

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	7.5	7.5	7.5	7.5	7.5
A-Salaries and Wages	618,000	618,000	1,236,000	1,236,000	1,236,000
B-Employee Benefits	227,000	227,000	454,000	454,000	454,000
C-Professional Service Contracts					
E-Goods and Other Services	98,000	98,000	196,000	196,000	196,000
G-Travel	5,000	5,000	10,000	10,000	10,000
J-Capital Outlays	81,000	8,000	89,000	16,000	16,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	1,029,000	956,000	1,985,000	1,912,000	1,912,000

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
CONTRACTS SPECIALIST 3	78,408	1.0	1.0	1.0	1.0	1.0
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		7.5	7.5	7.5	7.5	7.5

III. D - Expenditures By Program (optional)

Program	FY 2022	FY 2023	2021-23	2023-25	2025-27
Community Behavioral Health (150)	1,029,000	956,000	1,985,000	1,912,000	1,912,000
Total \$	1,029,000	956,000	1,985,000	1,912,000	1,912,000

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 S HB

HCA Request #: 21-91

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.

This version of the bill requires the Health Care Authority (HCA) to submit a readiness report to the Governor and the Legislature by November 1, 2022 and the date by which HCA must adopt rules establishing maximum personal use amounts of controlled substances, counterfeit substances, and legend drugs is delayed from September 1, 2022, to April 1, 2023. In addition, provisions are added stating that nothing in the bill prohibits public or private employers from establishing or enforcing employment or workplace policies pertaining to use, possession, manufacture, distribution, or dispensation of controlled substances, counterfeit substances, or legend drugs, regardless of whether the amount at issue is a personal use amount.

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 HC) 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;

HCA Fiscal Note

Bill Number: 1499 S HB

HCA Request #: 21-91

- 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;
 - 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) HCA must submit a readiness report to the Governor and the Legislature by November 1, 2022, that indicates progress on the SUD continuum of care.
- (8) 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:

HCA Fiscal Note

Bill Number: 1499 S HB

HCA Request #: 21-91

- 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;
- 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.

HCA Fiscal Note

Bill Number: 1499 S HB

HCA Request #: 21-91

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 by April 1, 2023.

Section 6 - Definitions.

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

HCA Fiscal Note

Bill Number: 1499 S HB

HCA Request #: 21-91

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 of SUD and appropriate responses to common situations;
- 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 amends RCW 69.50.608 adding language regarding policies pertaining to personal use amounts and allowance for local jurisdictions to create additional diversion resources.

Section 15 adds a new section to chapter 69.50 adding language to clarify that nothing in this act prohibits a public or private employer from establishing or enforcing employment or workplace policies pertaining to controlled substances, counterfeit substances, or legend drugs.

PART 4 – CONSTRUCTION

Section 16 adds a new section stating if any part of this act is held invalid, the remainder of the act is unaffected.

Section 17 adds a new section setting effective dates for sections 6 through 12, 14 and 15 of this act take effect July 1, 2023.

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	514,000	478,000	478,000	478,000	478,000	478,000
Total			514,000	478,000	478,000	478,000	478,000	478,000
Biennial total				992,000		956,000		956,000

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 2022.

HCA Fiscal Note

Bill Number: 1499 S HB

HCA Request #: 21-91

Administrative Impacts:

Developing the plan in Section 2 and supporting the committee in Section 3 will require additional staff time. HCA estimates \$1,985,000 (\$992,000 GF-State) and 7.5 Full Time Equivalent (FTE) will be required to lead coordination efforts and convene the multi-agency and stakeholder Substance Use 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:

- Completion of readiness report required in section 2(7);
- Lead coordination efforts for the Substance Use Recovery Services Advisory Committee;
- Oversight of entire implementation plan and coordination efforts.

HCA assumes 1.0 FTE Contract Specialist 3 will be required in the Division of Legal Services (DLS) for:

- Drafting and negotiating amendments to HCA's MCO and BH-ASO contracts;
- Drafting and negotiating amendments to our PEBB/SEBB contracts;
- Draft and negotiate new contracts for crisis stabilization units, triage facilities, designated crisis responders, and mobile crisis response services;
- Draft and negotiation interagency agreements with DOC.

HCA Fiscal Note

Bill Number: 1499 S HB

HCA Request #: 21-91

HCA's Expenditures by Fund:

Expenditures			FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
001	GF-State	1	515,000	478,000	478,000	478,000	478,000	478,000
001	GF-Federal Medicaid Title XIX	C	514,000	478,000	478,000	478,000	478,000	478,000
Total			1,029,000	956,000	956,000	956,000	956,000	956,000
Biennial Total				1,985,000		1,912,000		1,912,000

HCA's Expenditures by Object:

Objects		FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
A	Salaries & Wages	618,000	618,000	618,000	618,000	618,000	618,000
B	Employee Benefits	227,000	227,000	227,000	227,000	227,000	227,000
E	Goods and Services	98,000	98,000	98,000	98,000	98,000	98,000
G	Travel	5,000	5,000	5,000	5,000	5,000	5,000
J	Capital Outlays	81,000	8,000	8,000	8,000	8,000	8,000
Total		1,029,000	956,000	956,000	956,000	956,000	956,000

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
CONTRACTS SPECIALIS	78,408	1.0	1.0	1.0	1.0	1.0	1.0
Total	554,631	7.5	7.5	7.5	7.5	7.5	7.5

Part IV: Capital Budget Impact

None

Part V: New Rule Making Required

New rule making is required as follows:

Section 2(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 S HB	Title: Sub. use disorder/health	Agency: 225-Washington State Patrol
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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:

Non-zero but indeterminate cost 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: 02/15/2021
Agency Preparation: Mario Buono	Phone: (360) 596-4072	Date: 02/17/2021
Agency Approval: Walter Hamilton	Phone: 360-596-4046	Date: 02/17/2021
OFM Review: Jenna Forty	Phone: (564) 999-1671	Date: 02/18/2021

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 proposed substitute legislation changes the fiscal impact to the Washington State Patrol (WSP) compared to the previous version. Compared to HB 1499, the substitute legislation removes the provisions that allowed persons with certain prior controlled substance convictions to vacate their record of conviction without having to meet current law requirements for vacating convictions.

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 17 delays the effective date of provisions decriminalizing possession of personal use amounts of controlled substances, counterfeit substances, and legend drugs until July, 2023.

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.

Due to the elimination of criminal penalties for possession of personal use amounts of controlled substances, there could be a reduced workload impact to process drug related arrests. Currently we receive around 5,515 drug related arrests per year. Of these, we do not receive or retain the amount or type of the controlled substance so it is difficult to estimate how many arrests would fall under personal use amounts. To provide a general estimate of the potential impact, we estimate roughly 75% of the arrests could fall under personal use amounts. This translates to a potential reduced workload impact of roughly 1.2 FTEs per year, or a savings of around \$133k per year, starting in fiscal year 2024. Any realized resource savings would be shifted to other agency priorities.

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.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

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

III. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost 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*

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

Individual State Agency Fiscal Note

Bill Number: 1499 S HB	Title: Sub. use disorder/health	Agency: 227-Criminal Justice Training Commission
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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: 02/15/2021
Agency Preparation: Brian Elliott	Phone: 206-835-7337	Date: 02/16/2021
Agency Approval: Brian Elliott	Phone: 206-835-7337	Date: 02/16/2021
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/16/2021

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 S HB	Title: Sub. use disorder/health	Agency: 303-Department of Health
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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	9,000	35,000	2,000	2,000
Total \$	26,000	9,000	35,000	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: 02/15/2021
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 02/18/2021
Agency Approval: Carl Yanagida	Phone: 360-789-4832	Date: 02/18/2021
OFM Review: Danielle Cruver	Phone: (360) 522-3022	Date: 02/19/2021

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.

The substitute version of this bill:

- Changes the deadline in Section 5 for adoption of rules establishing maximum personal use amounts from September 1, 2022 to April 1, 2023. Due to the extended timeline, Department of Health (department) assumes a greater time commitment on the part of staff and the Pharmacy Quality Assurance Commission (commission) in providing consultation to the Health Care Authority on adoption of rules, and therefore additional costs to the department.
- Removes sections regarding vacating convictions which occurred prior to December 1, 2022 for possession of controlled substances, counterfeit substances, legend drug use, and drug paraphernalia. There is no change in fiscal impact to the department as a result of this change in the substitute version.
- Adds a new section to chapter 69.50 RCW (Uniform Controlled Substances Act) which clarifies that nothing in the bill prohibits public or private employers from establishing or enforcing employment or workplace policies pertaining to use, possession, manufacture, distribution, or dispensation of controlled substances, counterfeit substances, or legend drugs. There is no change in fiscal impact to the department as a result of this change in the substitute version.
- Changes the effective date of sections 6 through 12, 14, and 15 from December 1, 2022 to July 1, 2023. There is no change in fiscal impact to the department as a result of this change in the substitute version.

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 and the commission, to adopt rules by April 1, 2023 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 15: A new section is added to chapter 69.50 RCW (Uniform Controlled Substances Act) which

clarifies that nothing in the bill prohibits public or private employers from establishing or enforcing employment or workplace policies pertaining to use, possession, manufacture, distribution, or dispensation of controlled substances, counterfeit substances, or legend drugs, regardless of whether the amount at issue is a personal use amount.

Section 17: Establishes an effective date of July 1, 2023 for sections 6 through 12, 14 and 15.

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 five meetings in FY 2022 and five meetings FY 2023 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 and fiscal year 2023, costs will be 0.10 FTE and \$9,000 each year (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 0.10 FTE and \$17,000 (02G-1).

Discipline

Sections 7, 8, 9, 10, & 11: 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: \$9,000 (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	9,000	35,000	2,000	2,000
Total \$			26,000	9,000	35,000	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	6,000	21,000	2,000	2,000
B-Employee Benefits	5,000	2,000	7,000		
C-Professional Service Contracts					
E-Goods and Other Services	5,000	1,000	6,000		
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	1,000		1,000		
9-					
Total \$	26,000	9,000	35,000	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	0.2		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 S HB	Title: Sub. use disorder/health	Agency: 310-Department of Corrections
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

Non-zero but indeterminate cost 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: 02/15/2021
Agency Preparation: Nicole Trexler	Phone: 360-725-8483	Date: 02/19/2021
Agency Approval: Michael Steenhout	Phone: 360-725-8270	Date: 02/19/2021
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/23/2021

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.

New changes to the bill that affect the Department of Corrections (DOC):

Section 14 is amended and removed the application for vacation of sentencing for applicable drug offenses to those currently incarcerated under these charges. The new section states that Washington State is permitted to set penalties for violations of the controlled substance act while establishing policies in relation to the personal use amount as provided in section 5 of this bill. Cities, towns, and counties may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter.

Section 15 is amended and removed the exemptions to the previous language in Section 14. This is replaced with public and private employer exemptions for policies pertaining to controlled substances.

Section 17 states that Sections 6 through 12, 14, and 15 of this bill will take effect on July 1, 2023.

Previous unchanged bill language:

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 individuals 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 to 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 that it is 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 personal use amount, except prescriptions under the order of a practitioner authorized to prescribe drugs, is also prohibited.

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 be possible effects to Substance Abuse Recovery services delivered in prisons 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, 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 Department of Corrections (DOC) assumes this bill would likely result in a prospective decrease of Average Daily Population (ADP). Although the full ADP impact cannot be reliably estimated, for illustrative purposes, a decrease of 100 incarcerated individuals could result in a -\$564,800 (\$5,648 per DVC x 100 incarcerated individuals) annual savings.

ASSUMPTIONS

1. The estimated ADP impact to DOC prison facilities/institutions and/or community supervision/violator caseloads is based on projections from CFC.
2. We assume Direct Variable Cost (DVC) of \$5,648 per incarcerated individual per FY to facilitate cost discussions during legislative session for bills. This cost estimate includes prison and health services direct variable costs. It does not include staffing or dollars necessary for staffing needed at the facility outside of the living/housing units. The DVC is calculated by DOC and reviewed and approved with Office of Financial Management, Senate, and House staff each legislative session.
3. 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

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

III. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost 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*

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 S HB	Title: Sub. use disorder/health
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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: 02/23/2021
Leg. Committee Contact: Omeara Harrington	Phone: 360-786-7136	Date: 02/15/2021
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/23/2021
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/25/2021

Part IV: Analysis

A. SUMMARY OF BILL

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

CHANGES FROM PRIOR BILL VERSION:

The substitute bill would delay the effective date from December 1, 2022, to July 1, 2023, for provisions decriminalizing possession of personal use amounts of controlled substances, counterfeit substances, and legend drugs, and use of paraphernalia for personal use amounts of controlled substances, as well as provisions expanding alternatives to arrest. This would not change the fiscal impact total, but it would delay impacts until Fiscal Year 2024.

Changes to section 5 would extend the deadline for rule adoption from September 1, 2022 to April 1, 2023.

Sections 14 through 17 would be removed. These sections would have allowed persons with certain prior controlled substances convictions to vacate the record of conviction without having to meet current law requirements for vacating convictions. This would remove both costs and savings associated with the vacation of current sentences for those convicted of possession of a controlled or counterfeit substance.

The new section 15 would state that nothing in the bill prohibits public or private employers from establishing or enforcing employment or workplace policies pertaining to use, possession, manufacture, distribution, or dispensation of controlled substances, counterfeit substances, or legend drugs, regardless of whether the amount at issue is a personal use amount. This would have no fiscal impact on local governments.

The changes to the bill in the substitute version would affect the total expenditures from local governments by delaying and reducing expenditures. However, in this fiscal analysis, the impact to local government revenues would remain indeterminate overall.

SUMMARY OF CURRENT BILL VERSION:

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. In addition, the section would require that, by April 1, 2023, the director, in consultation with the department and the pharmacy quality assurance commission, shall 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.

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 15 would state that nothing in the bill prohibits public or private employers from establishing or enforcing employment or workplace policies pertaining to use, possession, manufacture, distribution, or dispensation of controlled substances, counterfeit substances, or legend drugs, regardless of whether the amount at issue is a personal use amount.

Section 16 would provide that if any section is found invalid, the rest of the bill would still be valid.

Section 17 would provide that sections 6-12 and 14 are effective July 1, 2023

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.

CHANGES FROM PRIOR BILL VERSION:

Sections 14 through 17 would be removed. These sections would have allowed persons with certain prior controlled substances convictions to vacate the record of conviction without having to meet current law requirements for vacating convictions. This would remove both costs and savings associated with the vacation of current sentences for those convicted of possession of a controlled or counterfeit substance. County jail beds that would have been vacated would still be occupied, and costs to county prosecutors and public defenders from addition strain on the courts would be removed.

In addition, the substitute bill would delay the effective date from December 1, 2022, to July 1, 2023, for provisions decriminalizing possession of personal use amounts of controlled substances, counterfeit substances, and legend drugs, and use of paraphernalia for personal use amounts of controlled substances, as well as provisions expanding alternatives to arrest. This would not change the fiscal impact total, but it would delay impacts until Fiscal Year 2024.

SUMMARY OF CURRENT BILL VERSION:

This legislation would have indeterminate impacts on local government expenditures.

WORKGROUP PARTICIPATION

This bill 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 multiple local government representatives, such as public defenders, prosecutors, and law enforcement. Certain details of the workgroup (such as the number of times the workgroup would convene, the location or venue of the workgroup, and the particular representative 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 are unknown, the impact to 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 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, any reductions in sentences for these offenses would result in 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, a 2020 report by the Justice Policy Institute, the costs to incarcerate a juvenile in the state of Washington is about \$240 per day.

Lowering of Criminal History Scores:

The provisions of the bill that allow convictions of Possession of a Controlled or Counterfeit Substance, either being served currently or having been served and had the concerned offender discharged, to be vacated may result in lower criminal history scores if the person has a subsequent felony offense. This may result 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 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 costs 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 in total. 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 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 currently assumed this training will cause no new costs to be incurred by local 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. How many officers would participate in this additional two-hour training is currently 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