

CITY OF SEATTLE
ORDINANCE 126520
COUNCIL BILL 120247

AN ORDINANCE relating to the organization of City government; adding data reporting responsibilities to the City Attorney’s Office; and adding a new Chapter 3.46 to the Seattle Municipal Code.

WHEREAS, in 2017, the City Attorney’s Office piloted a pre-filing diversion program for a number of misdemeanor offenses for adults aged 18-24 in partnership with the community-based organization Choose 180; and

WHEREAS, the Council provided funding in the 2018 budget for the City Attorney’s Office to maintain a pre-filing diversion program; and

WHEREAS, in 2018 the City Attorney’s Office began providing pre-filing diversion and relicensing support with the community-based organization Legacy of Equality, Leadership, and Organizing (LELO) for individuals accused of Driving While License Suspended in the 3rd degree; and

WHEREAS, starting in 2021, the City Attorney’s Office partnered with the community-based organization Gay City to support individuals aged 18-24 accused of non-intimate partner family-based domestic violence; and

WHEREAS, the Seattle Reentry Workgroup Report, issued in 2018, recommended expanding the use of pre-filing diversion to individuals aged 25 and older, and the Council adopted Statement of Legislative Intent CJ-24-A-2 in the 2020 Adopted Budget to request that the City Attorney’s Office evaluate the staffing and resources that would be needed to expand diversion to individuals 25 and over; and

1 WHEREAS, the Council also provided funding for the City Attorney’s Office to conduct a
2 Racial Equity Toolkit assessing the concept of expansion; and

3 WHEREAS, the Council added funding in the 2021 Adopted budget for the City Attorney’s
4 Office to expand pre-filing diversion to adults 25 and over; and

5 WHEREAS, both the City and King County have been integrating approaches to move towards
6 restorative practices focused on repairing the harm caused by alleged criminal activity
7 rather than further involvement in the criminal legal system and incarceration; and

8 WHEREAS, Choose 180 also works with King County doing felony diversion for juveniles and
9 KUOW has reported that in the past two years, King County reached “a tipping point in
10 which...prosecutors sent more juvenile cases to intervention programs like Choose 180
11 than they filed in court.”; and

12 WHEREAS, the South Seattle Emerald reported that at King County, “[a] program review from
13 2014 showed just under 20% of youth diverted to Choose 180’s program committed
14 additional crimes within a year — only 5% lower than a control group with similar
15 characteristics. By 2020, Choose 180’s annual report noted that 96% of the young people
16 it served did not reoffend within a year.”; and

17 WHEREAS, between the program’s inception in 2017 through 2020, 93 percent of individuals
18 had no new criminal convictions; and

19 WHEREAS, the Seattle Times reported that Choose 180’s success validated the City Attorney’s
20 Office’s “view that when you fashion remedies to youth criminal behavior on a case-by-
21 case basis, with an understanding of the individual needs of the offender and involvement
22 from the community, the public is ultimately safer.”; and

1 WHEREAS, the Seattle Times also reported that “[t]urning around young people at the
2 misdemeanor stage with solutions that don’t involve courts and prisons, at a time in their
3 lives when they’re still developing decision-making skills, is critical... once you
4 officially pay your debt to society, society keeps making you pay. The stigma of
5 incarceration follows you wherever you go.”; and

6 WHEREAS, the Seattle Times also reported that “[s]tudies have shown that jailing young people
7 — in particular for the type of lower-level crimes that make youths eligible for programs
8 like Choose 180 — does little to make them fit to re-enter society. And the idea of
9 ‘healing’ those who commit crimes has been treated as secondary to maintaining public
10 order and safety, instead of a key element in achieving those ends.”; and

11 WHEREAS, the regional movement towards restorative justice approaches also includes
12 organizations such as Community Passageways, which has received multiple awards,
13 including the Community Trailblazer Award, the MLK Vision From The Mountaintop
14 Award, Federal Way Schools HERO Award, the Ezzles Legacy Builder Award, and the
15 2020 Northwest Regional Emmy Award; and

16 WHEREAS, the City Attorney’s Office also supports pre-booking diversion programs; and

17 WHEREAS, LEAD began in 2011 as Law Enforcement Assisted Diversion, a program intended
18 to help individuals allegedly committing crimes stemming from unmet behavioral health
19 needs or poverty avoid arrest by connecting them with case managers and long-term
20 wraparound services; and

21 WHEREAS, as the program has evolved, it expanded to accept referrals unrelated to law
22 enforcement, and in 2020, changed its name to Let Everyone Advance with Dignity to
23 reflect as much; and

1 WHEREAS, in 2015, the Seattle Times editorial board published an op-ed recommending that
2 based on research about the LEAD project, that “Seattle and King County, which pays for
3 felony prosecutions, should go big with LEAD” and that “[l]ocal leaders are smart
4 enough on crime to know that LEAD is not some get-out-of-jail card. It is an
5 acknowledgment that the status quo does not work.”; and

6 WHEREAS, in 2021, the Seattle Times editorial board published an op-ed stating that
7 “[a]llowing police to confiscate drugs and send users to treatment reduces courthouse
8 burdens and pointless jail bookings for people who need help. It’s also already proven.
9 Seattle launched its Law Enforcement Assisted Diversion program in 2011, and King
10 County and jurisdictions nationwide have adopted their own versions.”; and

11 WHEREAS, currently, the City Attorney’s Office supports pre-booking diversion through staff
12 attorneys dedicated to support 1) LEAD; 2) Co-LEAD, an interim
13 program of LEAD designed to provide services and stabilization for individuals who
14 were not being arrested, charged or otherwise detained for alleged criminal law violations
15 due to public health considerations regarding COVID-19; and 3) King County Vital, a
16 program providing comprehensive support and case management for individuals with
17 behavioral health and substance use disorder who are frequently involved in the criminal
18 legal system; and

19 WHEREAS, reducing involvement in the criminal legal system through diversion programs can
20 help individuals avoid both the harms of experiencing the system and incarceration itself
21 as well as the collateral consequences of having a criminal record, which include
22 obstacles to finding employment and housing; and

1 WHEREAS, in requiring data reporting, the Council intends to increase transparency in how the
2 criminal legal system works and examine if and how the City Attorney’s Office is being
3 effective in increasing public safety; and

4 WHEREAS, Article XIII, Section 3 of the City Charter provides that “The City Attorney shall
5 have full supervisory control of all the litigation of the City, or in which the City or any
6 of its departments are interested, and shall perform such other duties as are or shall be
7 prescribed by ordinance;” and

8 WHEREAS, this ordinance is intended to prescribe additional duties of the City Attorney’s
9 Office to provide data and reports to the Council; and

10 WHEREAS, the City Attorney’s Office is currently undergoing a transition of leadership
11 effective January 1, 2022, introducing potential uncertainty; and

12 WHEREAS, the Council intends this legislation to communicate its intentions for the City
13 Attorney’s Office to report data to reduce that uncertainty; NOW, THEREFORE,

14 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

15 Section 1. A new Chapter 3.46 is added to the Seattle Municipal Code is added to Subtitle
16 II of Title 3 as follows:

17 **CHAPTER 3.46 CITY ATTORNEY’S OFFICE**

18 **3.46.010 Name and purpose**

19 A. The Law Department, as established by Article XIII of the City Charter, may also be
20 called the City Attorney’s Office. All references in the Seattle Municipal Code, ordinances and
21 resolutions, and other documents to the City Attorney’s Office shall be construed to refer to the
22 Law Department.

1 B. The purpose of this Chapter 3.46 is to prescribe duties in addition to the existing duties
2 of the City Attorney as referenced in Article XIII of the City Charter.

3 **3.46.020 Duties**

4 A. The City Attorney’s Office shall provide quarterly reports to the Chair of the Council
5 committee with jurisdiction over public safety with the following information:

6 1. Percentage and number of cases charged compared to police reports declined or
7 diverted;

8 2. Percentage and number of cases going to trial and for which offenses;

9 3. Percentage and number of charges resulting in conviction, including, but not
10 limited to, dispositional continuances and the ultimate disposition in those cases;

11 4. The final disposition on all charged cases; and

12 5. As available in the criminal case management system, demographics, including
13 race, ethnicity, and gender for individuals for individuals in cases identified in subsections
14 3.46.020.A.1 through 3.46.020.A.4.

15 B. The City Attorney’s Office shall provide annual reports to the Chair of the Council
16 committee with jurisdiction over public safety with the following information for each part of the
17 pre-filing diversion program, including, but not limited to, mainstream pre-filing diversion, pre-
18 filing diversion for non-intimate partner domestic violence charges, pre-filing diversion for
19 violations of driving without a license 3, and any expanded or successor programs:

20 1. Total number of individuals referred to, participating in, and completing the
21 program;

22 2. Identification of barriers preventing individuals participating in the program
23 from completing the program;

- 1 3. Total number of reports referred;
- 2 4. Total number of reports diverted;
- 3 5. Self-identified race, ethnicity, and gender for individuals referred, participating,
- 4 and completing the program;
- 5 6. The self-identified race and ethnicity for victims supporting participant
- 6 diversion and for the corresponding participant as well as for where referred individuals cannot
- 7 participate in diversion because victims expressed safety concerns;
- 8 7. Self-reported age, housing status, housing stability, employment status, school
- 9 enrollment, income, employment if a student, and whether the individual is supporting children;
- 10 8. Services provided or after care through the Court Resource Center, the party
- 11 contracted to provide diversion services, or otherwise;
- 12 9. Recidivism for crimes committed in Washington State; and
- 13 10. The annual goal for each part of the program and if the goal was met.

14 C. The City Attorney’s Office shall notify the Chair of the Council committee with
15 jurisdiction over public safety within 90 days of implementing any material changes to the pre-
16 filing diversion program, including, but not limited to changes in eligibility parameters for
17 individuals to qualify or participate in pre-filing diversion, changes in the type of offenses that
18 are eligible for diversion, and changes in the pre-filing diversion model or how it is being
19 administered that would impact participants, to the extent such information is not protected by
20 attorney work-product.

21 D. The City Attorney’s Office shall provide quarterly reports to the Chair of the Council
22 committee with jurisdiction over public safety with any changes from the scope of work as of

1 2021 for the attorneys and paralegals supporting pre-booking diversion programming and the
2 reason for such changes, including, but not limited to:

3 1. The scope of discretion of the attorney making filing decisions for booked/in-
4 custody reports and out of custody reports;

5 2. Coordinating negotiation for all enrolled clients with open Seattle Municipal
6 Court cases;

7 3. Appearing at all substantive enrolled client hearings at Seattle Municipal Court;

8 4. Attending all LEAD operational workgroup meetings and other LEAD, Co-
9 LEAD, and Vital meetings;

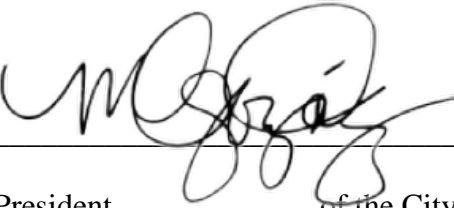
10 5. Training new staff working on pre-booking diversion;

11 6. Tracking information on enrolled clients; and

12 7. Primary focus of the pre-booking diversion attorneys on pre-booking diversion
13 programming except for short-term coverage of other matters.

1 Section 2. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 13th day of December, 2021,
5 and signed by me in open session in authentication of its passage this 13th day of
6 December, 2021.

7 

8 President _____ of the City Council

9 Approved / returned unsigned / vetoed this 27th day of December, 2021.

10 **Returned Unsigned by Mayor**

11 Jenny A. Durkan, Mayor

12 Filed by me this 27th day of December, 2021.

13 

14 Monica Martinez Simmons, City Clerk

15 (Seal)