



SEATTLE CITY COUNCIL

Public Safety Committee

Agenda

Tuesday, August 13, 2024

9:30 AM

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

Robert Kettle, Chair
Rob Saka, Vice-Chair
Joy Hollingsworth, Member
Cathy Moore, Member
Sara Nelson, Member

Chair Info: 206-684-8807; Robert.Kettle@seattle.gov

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August 13, 2024 - 9:30 AM

Meeting Location:

Council Chamber, City Hall , 600 4th Avenue , Seattle, WA 98104

Committee Website:

<https://www.seattle.gov/council/committees/public-safety>

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Members of the public may register for remote or in-person Public Comment to address the Council. Details on how to provide Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at the meeting at

<https://www.seattle.gov/council/committees/public-comment>

Online registration to speak will begin one hour before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

In-Person Public Comment - Register to speak on the Public Comment sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Pursuant to Council Rule VI.C.10, members of the public providing public comment in Chambers will be broadcast via Seattle Channel.

Please submit written comments at Council@seattle.gov or at least two business hours prior to the meeting at Seattle City Hall, Attn: Council Public Comment, 600 4th Ave., Floor 2, Seattle, WA 98104. Business hours are considered 8 a.m.-5 p.m., Monday through Friday. The deadline is 4:30 p.m. the business day before a meeting with a start time of 9:30 a.m.

Please Note: Times listed are estimated

A. Call To Order

B. Approval of the Agenda

C. Public Comment

D. Items of Business

1. [CB 120835](#) **AN ORDINANCE relating to Stay Out of Drug Area (SODA) zones; creating the ability to issue written orders to criminal defendants describing conditions of their pre-trial release or post-conviction conditions of sentence; creating SODA zones and providing for both the issuance of court orders relating to those zones and administration of those zones; creating the gross misdemeanor of violating a SODA order; and adding a new Chapter 12A.21 to the Seattle Municipal Code.**

Attachments: [Full Text: CB 120835 v1](#)

Supporting

Documents: [Summary and Fiscal Note](#)
[Central Staff Memo \(8/13/24\)](#)
[CAO Presentation](#)

Briefing and Discussion (45 minutes)

Presenters: Ann Gorman, Council Central Staff; Ann Davison, City Attorney; Daniel Nelson, Assistant Chief, Seattle Police Department

2. [CB 120836](#) **AN ORDINANCE relating to prostitution; creating the crimes of prostitution loitering and promoting loitering for the purpose of prostitution; establishing policies governing arrests for prostitution and prostitution loitering; creating Stay Out of Area of Prostitution (SOAP) zones and providing for both the issuance of court orders relating to those zones and administration of those zones; creating the gross misdemeanor of violating a SOAP order; and adding new Sections 12A.10.010, 12A.10.030, and 12A.10.040 and a new Chapter 12A.11 to the Seattle Municipal Code.**

Attachments: [Full Text: CB 120836 v1](#)

Supporting

Documents: [Summary and Fiscal Note](#)
[Central Staff Memo \(8/13/24\)](#)

Briefing and Discussion (45 minutes)

Presenters: Ann Gorman, Council Central Staff; Ann Davison, City Attorney

E. Adjournment



Legislation Text

File #: CB 120835, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to Stay Out of Drug Area (SODA) zones; creating the ability to issue written orders to criminal defendants describing conditions of their pre-trial release or post-conviction conditions of sentence; creating SODA zones and providing for both the issuance of court orders relating to those zones and administration of those zones; creating the gross misdemeanor of violating a SODA order; and adding a new Chapter 12A.21 to the Seattle Municipal Code.

The full text is provided as an attachment.

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to Stay Out of Drug Area (SODA) zones; creating the ability to issue written orders to criminal defendants describing conditions of their pre-trial release or post-conviction conditions of sentence; creating SODA zones and providing for both the issuance of court orders relating to those zones and administration of those zones; creating the gross misdemeanor of violating a SODA order; and adding a new Chapter 12A.21 to the Seattle Municipal Code.

..body

WHEREAS, in 2023 the City of Seattle experienced a record 763 drug overdose deaths,

amounting to almost half of the total drug overdose deaths in King County; and

WHEREAS, drug use and drug overdose deaths are highly concentrated around open-air drug

trafficking markets; and

WHEREAS, crime in Seattle is significantly concentrated around open-air drug trafficking

markets, including crimes of violence and property crimes; and

WHEREAS, open-air drug trafficking markets have historically been, and currently remain,

concentrated in certain areas in Seattle; and

WHEREAS, public safety concerns connected to open-air drug activity downtown and certain

other districts in Seattle are a reason why many employers and employees have not

returned to in-office work in those locations; and

WHEREAS, public safety concerns connected to open-air drug activity have caused many

businesses to shut down in commercial areas, have also negatively impacted important

civic, arts, and cultural institutions, and have substantially decreased the reported quality

of life of residents in those districts; and

WHEREAS, the revitalization of Seattle’s commercial districts is essential for the economic

health of the city; and

1 WHEREAS, reducing overdose deaths and improving public safety is a top priority of City
2 leaders; NOW, THEREFORE,

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

4 Section 1. A new Chapter 12A.21 is added to the Seattle Municipal Code as follows:

5 **Chapter 12A.21 STAY OUT OF DRUG AREA ZONES**

6 **12A.21.010 Definitions**

7 As used in this Chapter 12A.21:

8 “Prohibited area” means, for a court order issued under this Chapter 12A.21, an area in
9 which a defendant has been directed to not enter.

10 “SODA” means Stay Out of Drug Area.

11 “SODA order” means a court order issued under this Chapter 12A.21 that specifically
12 orders, as a condition of pretrial release and/or condition of sentence, that the defendant stay out
13 of one or more SODA zones.

14 “SODA zone” means a zone established under this Chapter 12A.21 due to a high level of
15 illegal drug trafficking in that area.

16 **12A.21.020 Issuance of order**

17 A. A judge or judge pro tempore of the Seattle Municipal Court may issue a SODA order
18 to anyone charged with, or convicted of, any criminal violation of the Controlled Substances Act
19 under chapter 69.50 RCW as adopted by Section 12A.09.020 occurring in a designated SODA
20 zone, either as a condition of pretrial release pursuant to CrRLJ 3.2 or as a condition of sentence.

21 B. A judge or judge pro tempore of the Seattle Municipal Court may also issue a SODA
22 order to anyone charged with, or convicted of, assault, harassment, theft, criminal trespass,
23 property destruction, or unlawful use or possession of weapons occurring in a designated SODA

1 zone in which the court finds a nexus between the offense and illegal drug activity, either as a
2 condition of pretrial release pursuant to CrRLJ 3.2 or as a condition of sentence.

3 C. Any SODA order shall describe the prohibited SODA zone determined by the court
4 and shall conspicuously state: “WARNING: Violation of this order is a gross misdemeanor
5 subject to a maximum penalty of 364 days in jail and/or a \$5,000 fine. A person found in
6 violation of this order is subject to arrest under Seattle Municipal Code Chapter 12A.21.”

7 D. Nothing in this Section 12A.21.020 shall be construed as precluding the court from
8 issuing an order pursuant to this Chapter 12A.21 that is not specifically a SODA order.

9 **12A.21.030 Violation of order**

10 A. If a police officer has probable cause to believe that a person is subject to an order
11 issued under this Chapter 12A.21, and that a willful violation of that order is occurring in the
12 officer’s presence, the officer may arrest that person without a warrant or other process.

13 B. A person who knowingly violates the terms of a SODA order by entering or remaining
14 within a prohibited area when the order is in effect is guilty of a gross misdemeanor.

15 C. Nothing in any provision of this Chapter 12A.21 related to SODA orders shall prohibit
16 a person from transiting through a SODA zone on public transportation as long as the person
17 does not enter or exit the public transportation in the SODA zone.

18 D. Nothing in any provision of this Chapter 12A.21 related to SODA orders shall be
19 construed as prohibiting a person subject to a SODA order from participating in a scheduled
20 court hearing or from attending a scheduled meeting with legal counsel within a prohibited area.

21 **12A.21.040 Modification and termination of order**

22 A. Upon request for modification or termination of any order issued under this Chapter
23 12A.21, the court shall consider the requested modification or termination by allowing for a

1 process by which the person subject to the order can provide relevant testimony or other
2 evidence in support of the request.

3 B. Unless otherwise ordered by the court, a SODA order issued under this Chapter
4 12A.21 as a condition of sentence shall terminate two years from the date of issuance. SODA
5 orders issued as pretrial conditions of release shall terminate upon dismissal of the criminal
6 charge.

7 C. Upon request for termination of any order issued under this Chapter 12A.21, the court
8 may consider the requested termination by allowing for a process by which the order's subject
9 can provide relevant testimony or other evidence in support of the request.

10 D. Whenever an order is issued, modified, or terminated under this Chapter 12A.21, the
11 clerk of the court shall forward a copy of the order on or before the next judicial day to the
12 Seattle Police Department. Upon receipt of the copy of the order, the Seattle Police Department
13 shall enter the order until the expiration date specified on the order into any computer-based
14 criminal intelligence information system(s) available to Seattle police officers. Upon receipt of
15 notice that an order has been terminated, the Seattle Police Department shall remove the order
16 from the computer-based criminal intelligence information system(s).

17 **12A.21.050 Creation, evaluation, modification, and termination of SODA zone**

18 A. SODA zones may be created, modified, or terminated by ordinance.

19 B. The geographic boundaries of SODA zones shall be narrowly tailored to encompass
20 areas of significant illegal drug activity. Unless otherwise specified, SODA zones shall include
21 both sides of the streets, including sidewalks, that demarcate the geographic perimeter of a
22 particular SODA zone.

1 C. This Chapter 12A.21 and the effect of its application shall be reviewed at least every
2 two years by the City Council. For each year, the Seattle Police Department, with input from the
3 City Attorney’s Office, shall publish a report no later than the end of the first quarter of the
4 following year that provides the following information:

- 5 1. How many SODA orders were issued for each SODA zone;
- 6 2. How many arrests were made for violating the orders in each SODA zone;
- 7 3. Demographic information on those receiving orders and/or violating orders;

8 and

9 4. Analysis of illegal drug trafficking and drug use in SODA zones, including
10 year-over-year statistics of drug-related crimes and whether dispersion of illegal drug trafficking
11 and public use occurred in surrounding areas.

12 This report shall be provided to the City Clerk and the City Council and published on the
13 Seattle Police Department and City Attorney’s Office’s websites.

14 D. SODA Zone 1

15 Due to high levels of significant drug activity, SODA Zone 1 (illustrated by Map A for
16 12A.21.050) is established as the area of Downtown bordered on the north by Stewart Street, on
17 the south by University Street, on the east by 6th Avenue, and on the west by 1st Avenue.

18 **Map A for 12A.21.050**

19 **SODA Zone 1**



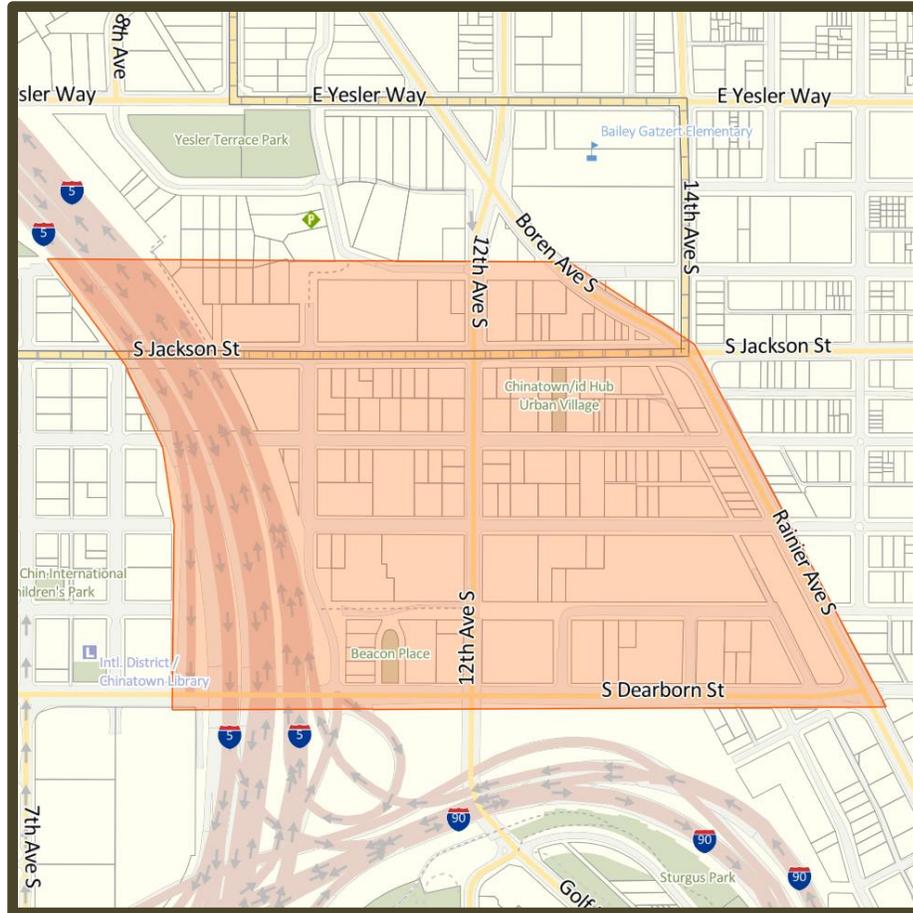
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E. SODA Zone 2

Due to high levels of significant drug activity, SODA Zone 2 (illustrated by Map B for 12A.21.050) is established as the area of the International District bordered on the north by S. Main Street, on the south by S. Dearborn Street, on the east by Boren Avenue continuing to Rainier Avenue S., and on the west by the westernmost edge of Interstate 5, including all off-ramps and areas underneath Interstate 5 and sidewalks immediately adjacent to Interstate 5.

Map B for 12A.21.050

SODA Zone 2



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Section 2. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, does not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

1 Section 3. This ordinance shall take effect as provided by Seattle Municipal Code
2 Sections 1.04.020 and 1.04.070.

3 Passed by the City Council the _____ day of _____, 2024,
4 and signed by me in open session in authentication of its passage this _____ day of
5 _____, 2024.

6 _____
7 President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2024.

8 _____
9 Bruce A. Harrell, Mayor

10 Filed by me this _____ day of _____, 2024.

11 _____
12 Scheereen Dedman, City Clerk

13 (Seal)

SUMMARY and FISCAL NOTE

Department:	Dept. Contact:	CBO Contact:
LAW	Scott Lindsay	

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to Stay Out of Drug Area (SODA) zones; creating the ability to issue written orders to criminal defendants describing conditions of their pre-trial release or post-conviction conditions of sentence; creating SODA zones and providing for both the issuance of court orders relating to those zones and administration of those zones; creating the gross misdemeanor of violating a SODA order; and adding a new Chapter 12A.21 to the Seattle Municipal Code.

Summary and Background of the Legislation: This legislation creates two Stay Out of Drug Area (SODA) zones in the city. It allows judges to issue orders to criminal violators of the state Controlled Substances Act (adopted by reference in relevant part in the Seattle Municipal Code), or committers of certain crimes whose acts are found by the court to have a nexus with illegal drug activity, to stay out of those zones. It then creates a gross misdemeanor for violating the judge-issued order. This legislation’s approach is based on SODA legislation implemented by other municipalities in this region.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

Project Name:	Master Project I.D.:	Project Location:	Start Date:	End Date:	Total Project Cost Through 2029:

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation have financial impacts to the City? Yes No

If there are no projected changes to expenditures, revenues, or positions, please delete the table below.

Expenditure Change (\$); General Fund	2024	2025 est.	2026 est.	2027 est.	2028 est.
Expenditure Change (\$); Other Funds	2024	2025 est.	2026 est.	2027 est.	2028 est.

Revenue Change (\$); General Fund	2024	2025 est.	2026 est.	2027 est.	2028 est.

Revenue Change (\$); Other Funds	2024	2025 est.	2026 est.	2027 est.	2028 est.

Number of Positions	2024	2025 est.	2026 est.	2027 est.	2028 est.

Total FTE Change	2024	2025 est.	2026 est.	2027 est.	2028 est.

If there are no changes to expenditures, revenues, or positions, please delete Sections 3.a, 3.b, and 3.c and answer the questions in Section 4.

4. OTHER IMPLICATIONS

- a. **Please describe how this legislation may affect any departments besides the originating department.** It affects the Seattle Police Department and Seattle Municipal Court by creating a new gross misdemeanor and some new criminal justice procedures.
- b. **Does this legislation affect a piece of property? If yes, please attach a map and explain any impacts on the property. Please attach any Environmental Impact Statements, Determinations of Non-Significance, or other reports generated for this property.** No.
- c. **Please describe any perceived implication for the principles of the Race and Social Justice Initiative.**
 - i. **How does this legislation impact vulnerable or historically disadvantaged communities? How did you arrive at this conclusion? In your response please consider impacts within City government (employees, internal programs) as well as in the broader community.** No particular implication is known.
 - ii. **Please attach any Racial Equity Toolkits or other racial equity analyses in the development and/or assessment of the legislation.**
 - iii. **What is the Language Access Plan for any communications to the public?** None at this time.
- d. **Climate Change Implications**
 - i. **Emissions: How is this legislation likely to increase or decrease carbon emissions in a material way? Please attach any studies or other materials that were used to inform this response.** There are no known emissions implications.
 - ii. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.** No.

- e. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)? What mechanisms will be used to measure progress towards meeting those goals?**

5. CHECKLIST

Please click the appropriate box if any of these questions apply to this legislation.

- Is a public hearing required?**
- Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required?**
- If this legislation changes spending and/or revenues for a fund, have you reviewed the relevant fund policies and determined that this legislation complies?**
- Does this legislation create a non-utility CIP project that involves a shared financial commitment with a non-City partner agency or organization?**
If yes, please review requirements in Resolution 31203 for applicability and complete and attach “Additional risk analysis and fiscal analysis for non-utility partner projects” form.

6. ATTACHMENTS

Summary Attachments:

August 12, 2024

MEMORANDUM

To: Public Safety Committee
From: Council Central Staff
Subject: CB 120835 – Court Orders (SODA Zones)

On August 13, 2024, the Public Safety Committee will discuss [Council Bill \(CB\) 120835](#), which would expand the Seattle Municipal Code (SMC) Criminal Code by establishing Stay out of Drug Area (SODA) zones, defining these zones as geographically circumscribed areas within which a high level of illegal drug activity is taking place. The bill would operationalize SODA zones by creating the authority for Seattle Municipal Court judges to issue SODA orders¹. This provision would allow judges to issue SODA zone exclusion orders to (1) individuals charged with or convicted of drug offenses and (2) individuals charged with or convicted of assault, harassment, theft, criminal trespass, property destruction, or unlawful use or possession of weapons if the judge finds a nexus between that offense and illegal drug activity. Violation of a SODA order would be a gross misdemeanor, punishable by a maximum of 364 days in jail and/or a fine of up to \$5000. Finally, CB 120835 would establish two SODA zones, in downtown Seattle and in the International District.

The bill also includes a required reporting component, intended to allow for the assessment of outcomes associated with SODA zone establishment. This memorandum describes the bill and discusses next steps.

Background

Exclusion orders

One way to think of an exclusion order is as a restraining order from a place rather than a person. An exclusion order is a court order requiring an individual to remain outside of a specified area or areas due to the combination of (1) the individual's charge for, or conviction of, a crime and (2) the documented occurrence of related crimes within the perimeter of the area or areas. In this sense, an exclusion order is a supervisory mechanism for someone who has had prior contact with the criminal justice system. Judges issuing them typically do so as a condition of pretrial release on bail, of a sentence, or of any alternative disposition. A SODA order is one type of exclusion order. Like a restraining order violation, a SODA order violation under CB 120835 would be a distinct crime, separate from any that an individual committed prior to the issuance of the order.

¹ SODA orders are thus a subset of court orders.

Stay Out of Drug Area (SODA) Zones and Orders

SODA zones as a law enforcement tool were developed in response to the organic emergence of open-air drug markets, which are generally defined as operating in geographically well-defined areas at identifiable times so sellers and buyers can easily locate one another.²

Several jurisdictions in the state, including Auburn, Arlington, and Everett, currently have SODA zones, and judges in their municipal courts may issue SODA orders. SODA orders restrict from areas in which drug-related crimes are prevalent individuals who have participated in, or who have been charged with, those crimes. When sellers and buyers of drugs know where to find each other, drug-related activity tends to become geographically concentrated, with negative impacts to the communities in which those concentrations occur. SODA orders also seek to decrease these impacts. The intent of this type of legislation is to disrupt this activity by means of excluding actors who have repeatedly contributed to it in SODA zones.

Although they are a law enforcement tool, SODA orders must be issued by a judge in order for a police officer to enforce a violation of such order. In addition to authorizing Seattle Municipal Court judges to authorize post-conviction SODA orders, CB 120835 would give them the authority to issue pretrial SODA orders in cases where an underlying criminal charge has not been proven, which would allow for the exclusion from a public space of a person who is still presumed innocent of the charged crime. In issuing such orders the judge would be bound by the requirements of CrRLJ 3.2, where the presumption is release without additional conditions.³ SODA orders issued as a condition of sentence are lawful if they are reasonably related to the offense and tend to prevent the future commission of crime.

History of SODA in Seattle

Prior to 2010, SODA orders were occasionally issued by Seattle Municipal Court judges pursuant to the judiciary's authorized function of setting reasonable pretrial conditions of release and post-conviction conditions of probation. The Seattle Municipal Court presiding judge approved the SODA zones, the boundaries for which were drafted by the City Attorney's Office (CAO) based on SPD crime data. These zone boundaries, and the zones themselves, were not legislated by the Council, so SODA order violations were treated only as probation violations, not standalone crimes.

As a specific example of the use of SODA zones as a supervisory mechanism, in 2006 CAO partnered with the King County Prosecuting Attorney's Office (KCPAO) to address possession of trace amounts of controlled substances, such as residual crack cocaine in a pipe. Under that agreement, the Seattle Police Department (SPD) began to charge individuals arrested on this basis with Attempted Violation of the Uniform Controlled Substances Act (VUCSA), a gross misdemeanor. At their first court appearance, defendants were offered a choice between being charged by the KCPAO with felony VUCSA⁴ or dismissal of the case in four months contingent on compliance with a SODA order for the area in which the arrest was made.

² Harocopus, Alex, and Mike Hough, "[Drug Dealing in Open Air Markets](#)." Problem-Specific Guides Series No. 31, Community Oriented Policing Services, U.S. Department of Justice.

³ CB 120835 provides for the termination of a SOAP order issued as a pretrial condition of release upon dismissal of the initial criminal charge.

⁴ Most drug crimes are felonies and fall under the jurisdiction of KCPAO.

In 2012, the Executive responded to a Statement of Legislative Intent (SLI) included by Council in the 2012 budget. The SLI requested that the Executive “create a task force to identify actions needed to improve the functionality, urban design, safety and security of the downtown Third Ave Transit Corridor.” It specifically directed the development of a pilot “hot spot”⁵ policing initiative, using an evidence-based process, within targeted zones in that corridor. In the SLI response, the Executive noted that SPD was currently developing a SODA program for drug sellers in coordination with various City and County entities, including the courts. No SODA program was subsequently established.

In 2016, Mayor Ed Murray’s Chinatown/International District Public Safety Action Plan referenced intent for CAO and SPD, working with the King County Superior Court, to impose SODA orders for “key individuals convicted of drug dealing in the C/ID.” No SODA program was subsequently established.

Current Concerns

Substance use and the open-air buying and selling of drugs has persisted in the central downtown area for decades. As a 2022 Pacific NW Magazine article⁶ describes, the epicenter of this activity has shifted during that time and its span has expanded and contracted, but most currently such activity is persistent in discrete areas of downtown and Belltown. In addition, because of the density of social-service and therapeutic care providers in Belltown, perpetrators of drug activity in this area impact those who are coming and going from such appointments, many of whom are trying to avoid drugs and re-establish more productive pathways. These individuals may be more vulnerable to those who are selling drugs and a diversion back into substance use and/or criminality may pose significant risks for them.

Drug activity (and related activity) poses both chronic and acute public-order and public-safety impacts to residents and businesses in these areas. It also has significant economic impacts in that it deters business and tourism activity and engenders property damage. SPD considers both of the proposed SODA zones in CB 120835 hot spots for crime. SPD believes that within these hot spots, a relatively small number of people engaging in illegal behaviors have an outsized impact on the localized criminogenic environment and that SODA orders would be an effective tool in mitigating these individuals’ impact.

⁵ “Hot spots” are areas in which a high density of crimes occur compared to surrounding areas.

⁶ Kiley, Brendan, [“Crime and Community Define One of Downtown Seattle’s Most Complex Areas,”](#) Pacific NW Magazine. June 24, 2022.

CB 120835

Practical Effect of Legislation

CB 120835 would establish two SODA zones. The proposed boundaries of each SODA zone are based on analysis of SPD crime data. The bill would allow Seattle Municipal Court judges to issue a SODA order to anyone charged with, or convicted of

- Any misdemeanor or gross misdemeanor criminal violation of the Uniform Controlled Substances Act ([RCW 69.50](#) as adopted by [SMC 12A.09.020](#)) occurring in a designated SODA area; and
- “Assault, harassment, theft, criminal trespass, property destruction, or unlawful use or possession of weapons occurring in a designated SODA zone in which the court finds a nexus between the offense and illegal drug activity.”

In other words, there is a defined spectrum of criminal activity, both at the charging and conviction phases, that could subject an individual to a SODA order. The key phrase in the bill language is “nexus,” or a causal connection. Studies have found that there is a consistent pattern of correlation between criminal drug violations and the other crimes listed above, reflecting such a causal link.

As an example of what the bill would permit, someone arrested for a drug crime (as described above) could be booked and charged for that crime and then arraigned before a Seattle Municipal Court judge. The judge, after finding probable cause, could require bail and issue a SODA order as a separate condition of the individual’s release. The individual would then be required to remain outside one or both SODA zones⁷ defined in the bill, absent any exceptions set by the judge. If an SPD officer encountered this individual in a SODA zone in violation of the court’s active SODA order, that officer would have discretion to arrest the individual, who could then be booked for the SODA order violation. This violation would be a gross misdemeanor and subject to a maximum penalty of 364 days in jail and/or a fine of \$5000. (As for any criminal offense, the actual sentence imposed would be at the discretion of the sentencing judge in Seattle Municipal Court.)

The bill also would allow an individual who has received a SODA order to request modification or termination of that order, and it describes the administrative processes for ensuring that SPD is made aware of newly issued SODA orders and that it removes information from its systems related to terminated SODA orders.

CB 120835 includes reporting requirements to assist in measuring its efficacy once implemented. It would require SPD, with input from CAO, to publish an annual report containing (1) per-zone data (including demographic data) on the issuance of SODA orders and arrests for SODA-order violations and (2) analyses of illegal drug trafficking and drug use in each SODA zone and the extent to which this localized enforcement may have driven criminal activity into surrounding areas. Although the bill would only create the two referenced SODA zones, the reporting requirement would apply to any zones subsequently legislated by Council. The bill would also require that Council review the effects of the establishment of SODA zones at least biennially.

⁷ In the 2006-2009 CAO/KCPAO program, SODA orders only applied to the SODA zone in which the initial Attempted VUCSA charge was made. CB 120835 would permit broader exclusion.

SODA Order Violation as New Crime

A judge's latitude to issue conditions to an individual's pretrial release or to create conditions to a probation sentence is discussed above. For instance, a judge could require that a person on probation for using drugs in public refrain from using drugs. If the individual used drugs, probation could be revoked and the individual remanded to carceral custody. In this scenario, the individual's use of drugs is a violation connected to the initial offense of drug selling; the use of drugs is not a new crime.

As previously noted, CB 120835 would create the new gross misdemeanor of violation of SODA order violation. If a judge issued a SODA order to the same individual as considered above and that individual violated the SODA order, the violation would be a new and separate offense with its own discrete penalties. This might be seen as analogous to a judge issuing a no-contact order in the context of an assault. Violation of the no-contact order represents a new criminal violation, distinct from and in addition to the alleged or actual assault. The crime of violating a SODA order can be proven on the basis that an individual was (1) subject to and had notice of an active SODA order and (2) willfully violated the terms of that order by entering into or remaining within the prohibited area. In contrast to the elements of the initial drug crime, violation of a SODA order is less fact intensive and may be more straightforward to prosecute.

Anticipated Impact on Existing Criminal Activity

According to SPD, in broad strokes the goal of SODA orders is to disrupt a crime hotspot in order to help restore public order, improve public safety and quality of life for area residents, invite lawful behavior, and foster lawful economic activity. When individuals with disproportionate criminogenic impact may be excluded from an area or areas where crime is concentrated, their exclusion may also be experienced disproportionately in a positive way. SODA orders also expand the ability of SPD officers to engage in proactive policing in pursuit of the same improvements in that they would create a lawful basis for contact with such individuals. Based on their experience policing drug hotspots, SPD reports that some individuals who spend significant time in these areas have warrants for their arrest, including for felony violations. The ability to engage with individuals believed to be subject to a SODA order – based on reasonable and articulable suspicion – would increase SPD officers' ability to detain and arrest those whose presence poses a risk of harm to themselves or to others and contributes to a localized environment of criminality. Such detainments and arrests could also support ongoing SPD investigations of criminal enterprises that manifest, in part, within hotspot areas.

Assuming that Seattle Municipal Court judges act on the authority provided by CB 120835, SPD would consider SODA orders a valuable tool in disrupting drug hotspots. Other ongoing efforts would also support that goal, for instance increased hiring of police officers and technology initiatives that provide greater evidentiary basis for criminal charges and investigations.

The proposed SODA zones are not anticipated to reduce public drug use generally, and due to the nature of addiction and to the lucrateness of illegal drug enterprises, it is likely that some visible drug use and drug dealing, and the crimes that often accompany them, will persist in the downtown area.

Fiscal and Operational Impact

SPD would bear some additional costs associated with a new role in the enforcement of SODA orders as described in CB 120835. CAO would also incur incremental new costs associated with the proposed expanded prosecutorial purview, as would the Seattle Municipal Court for its roles in adjudication and sentencing. The City would also face additional costs associated with providing legal defense services for those facing additional charges or court-ordered restrictions. For all these entities, those costs will depend on the number of cases that are referred for charging, but the increase could be significant and sudden. The reporting requirements in the bill would pose new obligations for both SPD and CAO. It is currently not possible to develop an estimate of the direct fiscal impacts of this bill.

The City is currently finalizing an interlocal agreement with the South Correctional Entity (SCORE) for the provision of jail services additive to those currently provided by King County at the King County Jail (KCJ). Specifically, the agreement will detail the operational and policy framework by which the City will use 20 SCORE beds for the booking of misdemeanor detainees. Ongoing constraints at KCJ have affected its capacity such that the City has access to fewer such beds there than was the case in 2019. To the extent that CB 120835 increases demand for jail beds – by virtue of a Seattle Municipal Court judge sentencing an individual to jail time for a SODA order violation – there will be additional cost to the City. The 20-bed SCORE contract has an estimated cost of \$2 million, exclusive of any costs related to transportation or detainee defense.

Issues for Consideration

Judicial authority and discretion: As described above, CB 120835 would give Seattle Municipal Court judges explicit authority to issue a SODA order in cases involving drug crime and in cases where they find a nexus between the charge or conviction for “assault, harassment, theft, criminal trespass, property destruction, or unlawful use or possession of weapons” and drug crime. It is possible that given the same evidence to evaluate in making that determination, different judges will make different articulable findings about whether or not such nexus exists. The high amount of judicial discretion vested in courts of limited jurisdiction (such as the Seattle Municipal Court) allows for divergent outcomes from similar fact patterns.

CB 120835 would present Seattle Municipal Court judges with two distinct opportunities to exercise their discretion. First, they may find a nexus between a charge and defined categories of criminal conduct and issue a SOAP order on the basis of this finding. Second, they may authorize exceptions to the SOAP order, for instance to see family, to attend medical or social appointments, to fulfill work commitments (the bill references such exceptions). The degree to which judges would act on those opportunities is unknown at the time of this memo’s publication.

SPD enforcement capacity: As of April, SPD had 913 deployable officers, a reduction from the pre-Covid figure of approximately 1400. With the support of Council and the Executive, the department is making significant investments in the recruiting and retention of officers, but any new enforcement responsibility must be balanced with existing workload in a resource-constrained environment, and the staffing deficit will require years of steady gains to overcome. By providing a lawful basis to contact and detain individuals known by SPD to frequent drug hotspots for the purposes of using or dealing drugs, SODA orders may provide a mechanism for promoting more efficient and effective patrol operations in these hotspots.

Efficacy of SODA zones and orders: Central Staff have not found any rigorous evaluations suggesting that the use of SODA orders (when issued by judges and comprehensively enforced by police departments) have the effect of improving public order, public safety, quality of life, and economic vibrancy. In preparing this memo, Central Staff met with subject matter experts from the Comprehensive Opioid, Stimulant, and Substance Use Program (COSSUP) Training and Technical Assistance unit, and they discussed with us several areas of ongoing research and shared relevant research papers.⁸ They acknowledged that it would be difficult to design a study that conclusively proved, based on data, whether SODA orders were effective across one or more of these dimensions, and the information they shared with us was generally qualitative and meta-analytical.⁹

Some research suggests that when exclusion orders that target drug-related crimes¹⁰ are in place, they may only encourage recidivism and do not address the underlying drug dependencies. A meta-analysis of the effectiveness of pretrial release conditions including community supervision (but not explicitly including SODA orders) found that these conditions had no effect on re-arrest. A similar meta-analysis (again, not explicitly including SODA orders) concluded that access to services, such as substance use and mental health treatment, played a significant role in whether the imposed conditions were effective. Central Staff had limited time to engage with the full body of research about pretrial release conditions and SODA orders.

SPD believes that the impacts of CB 120835 would not be best measured by statistics such as number of arrests for violating a SODA order. The department would instead endorse a more holistic means of evaluating the impact of new SODA zones that took into account foot traffic, business activity, and the perceptions of residents, visitors, and merchants as well as those of law enforcement stakeholders and the various community groups who are frustrated by current conditions in the proposed SODA zones.

During the 2006-2009 period during which the CAO/KCPAO partnership was in effect, there were a total of 1310 VUCSA cases filed. Across this group, in 208 cases defendants opted to be charged with felony VUCSA by KCPOA and 1082 agreed to abide by a SODA order for four months and case dismissal if they did not violate that order. In 83 percent of the SODA cases, defendants did not violate their orders, and in 58 percent of them defendants did not commit another Attempted VUCSA. CAO concluded that the program as then constituted appeared to be “achieving its goal of limiting drug users’ return to open air drug markets.”

⁸ Our thanks to Sarah Duhart Clarke, Catherine Grodensky, and Abigail Rinderle.

⁹ Meta-analyses combine the results of multiple studies that address a similar research question. They seek to develop a single conclusion that is stronger than any one study’s result, but the goal of this conclusion is to be generalizable.

¹⁰ Such orders are called red zone orders in Canada, where some of the described research was conducted.

Risk of displacement: Paradoxically, one way to determine whether an open-air drug market has been disrupted is that this activity begins to develop in a new area or disperse to one or more new areas in a less concentrated manner. Researchers have noted that a jurisdiction’s use of exclusion orders tends to become more expansive over time, with individuals subject to these orders gradually becoming excluded from more areas. Last year, the Everett City Council added two city parks to its list of SODA zones, allowing judges to bar individuals from entering those parks. News coverage of this legislative change noted that Everett was considering a further SODA program expansion, which would include “other parks and properties.”¹¹

Such program expansion not only curtails individuals’ liberty but may foster a larger social bifurcation, for instance one in which community members recognize that there are bad places (SODA zones) and good places and/or that the criminal justice system has taken from some people the ability to move freely around their cities while others retain the privilege.

Potential increased overdose risk when a user’s access to drugs is interrupted: Efforts to disrupt drug markets can cause unintended harm to those with substance use disorder (SUD) who rely on access to those markets. A 2023 study¹² found that seizures of drugs by law enforcement were associated with fatal overdose in the surrounding geographical areas within the following three weeks. Its authors hypothesize that when those with SUD tried to obtain drugs in new ways, they accepted greater risks, which led to the inadvertent taking of familiar drugs in higher concentrations or the taking of unfamiliar drugs. To the extent that those receiving SODA orders in the future need to find new places to get drugs, they may take on such risks.

Need for therapeutic services: As noted above, a study found that the efficacy of supervisory mechanisms such as SODA orders was correlated with whether or not those subject to them had access to services such as substance use and mental health treatment. CB 120835 does not address this correlation or reference the potential need for additional therapeutic funding for diversion services for drug offenders.

Race and Social Justice Considerations

Root causes: In many cases, an individual’s engagement in the behaviors described in CB 120835 and proposed for new criminalization have their roots in such factors as poverty, food and/or housing insecurity, lack of access to support resources or fearfulness about accessing them based on immigration status, and lack of remunerative employment opportunities. Meaningfully addressing these root causes, as a long-term strategy for improving public order and public safety issues, is beyond the scope of this bill.

¹¹ Rivera, Paul, KOMO News, “[Everett City Council expands drug enforcement zones to tackle hot spots in local parks.](#)” June 30, 2023

¹² Ray, B., Korzeniewski, S.J., Mohler, G., Carroll, J., del Pozo, B., Victor, G., Huynh, P., & Hedden, B. J. (2023). Spatiotemporal analysis exploring the effect of law enforcement drug market disruptions on overdose, Indianapolis, IN, 2020-2021. *American Journal of Public Health, 113*(7):750–758.

Potential for real and/or perceived discriminatory enforcement: CB 120835 would allow SPD officers to approach and engage with an individual in a SODA zone based on the reasonable and articulable suspicion that the individual is knowingly violating an active SODA order. (The applicable legal standard for this type of brief detention, also known as a *Terry* stop, is a suspicion based on articulable facts that the individual is engaged in criminal activity.) The operational guidelines for such approach have not been developed. It is possible that perceived discriminatory enforcement of suspected SODA orders may foster new tensions between police and those in SODA zones. It is SPD's practice to track and analyze police contacts for any disparate outcomes, and the department believes it will be able to measure any such outcome and work to mitigate it.

Impacts of SODA orders on those subject to them: Black, Indigenous, and People of Color (BIPOC) individuals are disproportionately charged with, and convicted of, the crimes for which CB 120835 would allow a judge to issue a SODA order. One outcome of CB 120835 could be that BIPOC individuals and those from historically vulnerable communities, having been issued SODA orders, are displaced from lawful activity in increasingly large areas of the city.

Research shared by the COSSUP group suggests that SODA orders may have various negative impacts to individuals' daily lives. These include the creation of new costs and constraints (for instance, with respect to transit through a city), the creation of barriers to housing, and the curtailment of employment possibilities. A SODA order may also be an impediment to integration with the community as one who has become law abiding after an initial conviction. Research authors concluded anecdotally that exclusion orders were not successful in helping their recipients deal with "issues of drug addiction and poverty." A witness in a Canadian court case that challenged the imposition of a red-zone order observed that "red zones make poor people feel poorer."¹³ With respect to the proposed International District SODA zone, it may exclude BIPOC individuals from the area who have a strong longtime cultural orientation to it.¹⁴

The proposed downtown SODA zone includes the blocks that are the locus of the City's Third Avenue Project (TAP), a milieu management project that seeks to mitigate street disorder and connect people with needed resources. As of May 2024, over 90 percent of those contacted by TAP staff reported that they live unsheltered. Those involved in outreach and diversion services in the TAP catchment area have shared the perspective that some TAP contactees may congregate in this area because it constitutes their social environment and/or because they feel safer among others. They would lose this sense of security and acceptance if they were issued SODA orders excluding them from the area. Jurisdictions that implement new exclusion-order programs may want to consider committing to ongoing, qualitative racial and social equity analysis.

¹³ Cited in Sylvestre, Marie-Eve, Dominique Bernier, and Celine Bellot, "Zone Restriction Orders in Canadian Courts and the Reproduction of Soci-Economic Inequality." *Oñati Socio-legal Series* [online] 5 (1), 280-297

¹⁴ Author's conversation with Lisa Dugaard of Purpose. Dignity. Action. July 12, 2024.

Next Steps

The Public Safety Committee plans to vote on CB 120835, including any proposed amendments, on September 10. The bill could then be voted on by the City Council on September 17.

cc: Ben Noble, Director
Yolanda Ho, Deputy Director
Greg Doss, Supervising Analyst



**SEATTLE CITY
ATTORNEY'S OFFICE
ANN DAVISON**

Stay Out of Drug Area (SODA) Legislation

- Stay Out of Drug Area (SODA) orders are judicial orders for a defendant to stay out of a designated area as a condition of pre-trial release or sentence.
- SODA order legislation is used in other Washington jurisdictions to disrupt concentrated drug market areas:



- Seattle Municipal Court issued SODA orders through approximately 2010.
 - Those orders were not authorized by legislation.
 - They were criticized for being too large and difficult to enforce.
- The proposed legislation:
 - Creates smaller data-based SODA zones focused on hot spots of public drug activity.
 - Avoids areas with supportive housing and services (e.g., 3rd Avenue from Virginia to Blanchard).
 - These zones are intended to ameliorate community harm caused by long-term concentrated drug-related activity & crime.
- SODA orders (like all judicial orders) are only enforceable if a person has legally sufficient notice of the conditions/restrictions.



- SODA orders must be issued and signed by a judge.
- They may be issued pretrial subject to CrRLJ 3.2 or after a conviction.
- Certain offenses are eligible **only** if committed in a SODA zone:
 - 1) Possession or public use of an illegal controlled substance; or
 - 2) Assault, harassment, theft, trespass, property destruction, or unlawful weapons, **provided** the court finds a **nexus** between the offense and illegal drug activity.
- The **judge** will always have **discretion** to decide if a SODA order is appropriate based on the evidence and individual circumstances.
- SPD can use SODA orders to lawfully contact recidivist offenders.

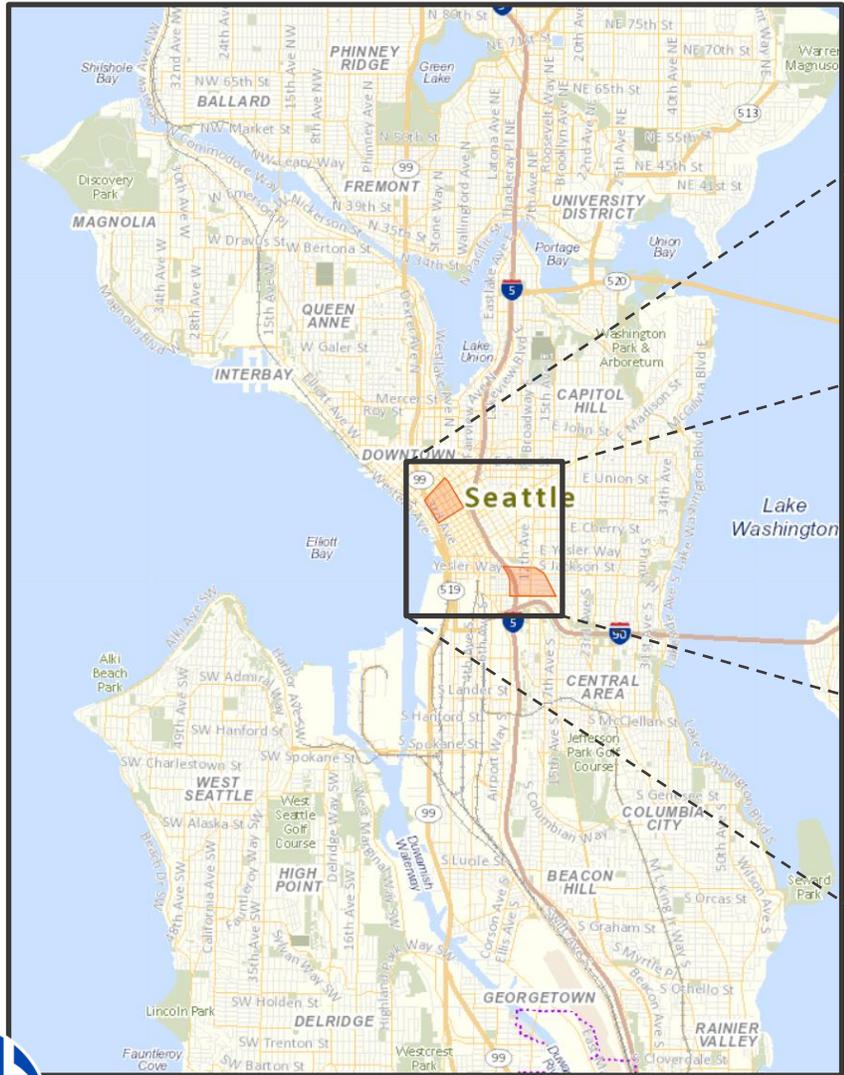


- Before *State v. Blake* (Feb. 2021), drug possession cases were felony offenses prosecuted in superior court. These cases **were not** handled in municipal court.
- Felony drug possession cases often imposed conditions of release and/or community custody requiring supervision, treatment, and staying away from known drug areas.
- Exclusion orders for drug areas and geographic restrictions are contemplated under state law in several contexts. For example:
 - Drug trafficking exclusion orders issued in superior court. See RCW 10.66.
 - Drug-free zones and enhanced penalties for VUCSA violations in those zones. See RCW 69.50.435.
 - Travel and movement restrictions as a condition of community custody. RCW 9.94A.703(3)(a).
- These restrictions have generally been held to be lawful when they bear a connection to the underlying offense, serve a rehabilitative or crime-deterrent purpose, are not overly broad, and provide clear notice of the prohibited areas.

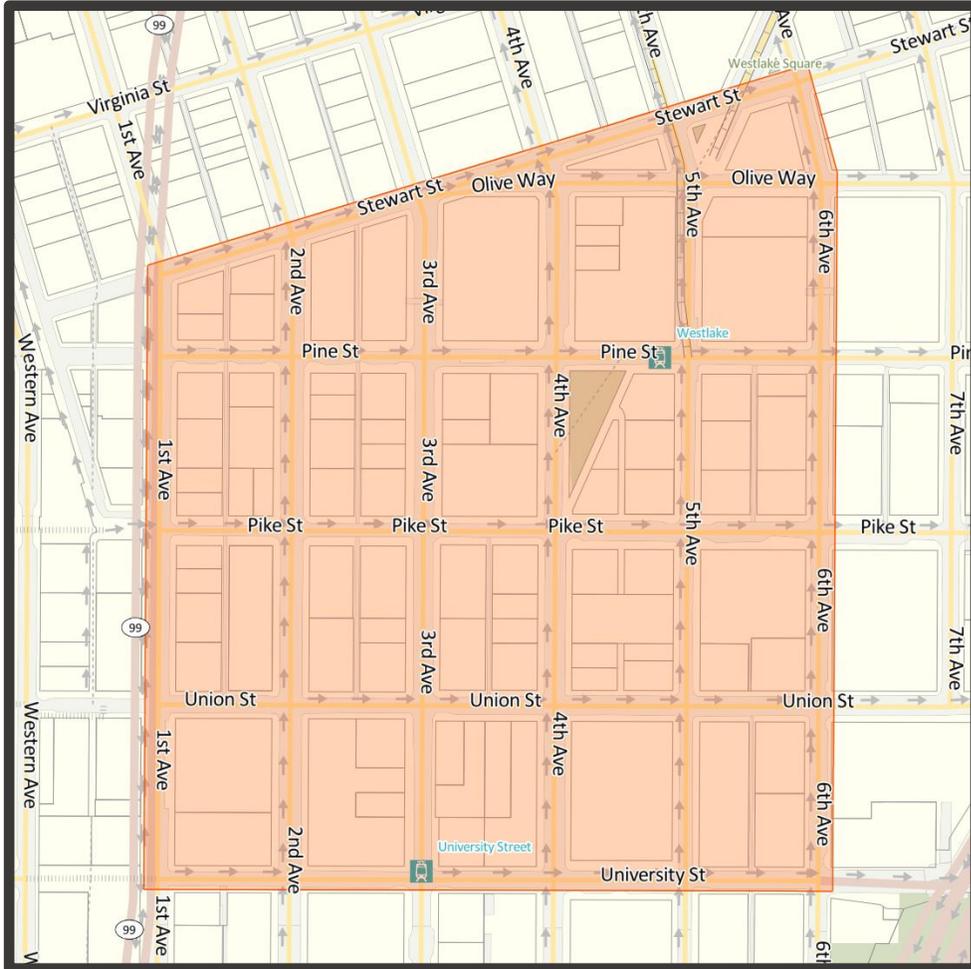


- Drug possession charges did not exist in municipal courts prior to *Blake*.
- This is new territory for cities. It is an unfunded mandate that moves drug cases into municipal courts.
- Cities do not have access to the same sentencing resources available in felony prosecutions (such as the Drug Offender Sentencing Alternative, community custody supervision & treatment, drug court, Parenting Offender Sentencing Alternative, etc.).
- Cities now must create the legislative and operational frameworks needed to address these cases.
- SODA orders are one piece of the Seattle response balancing compassion/treatment with public safety/community well-being.

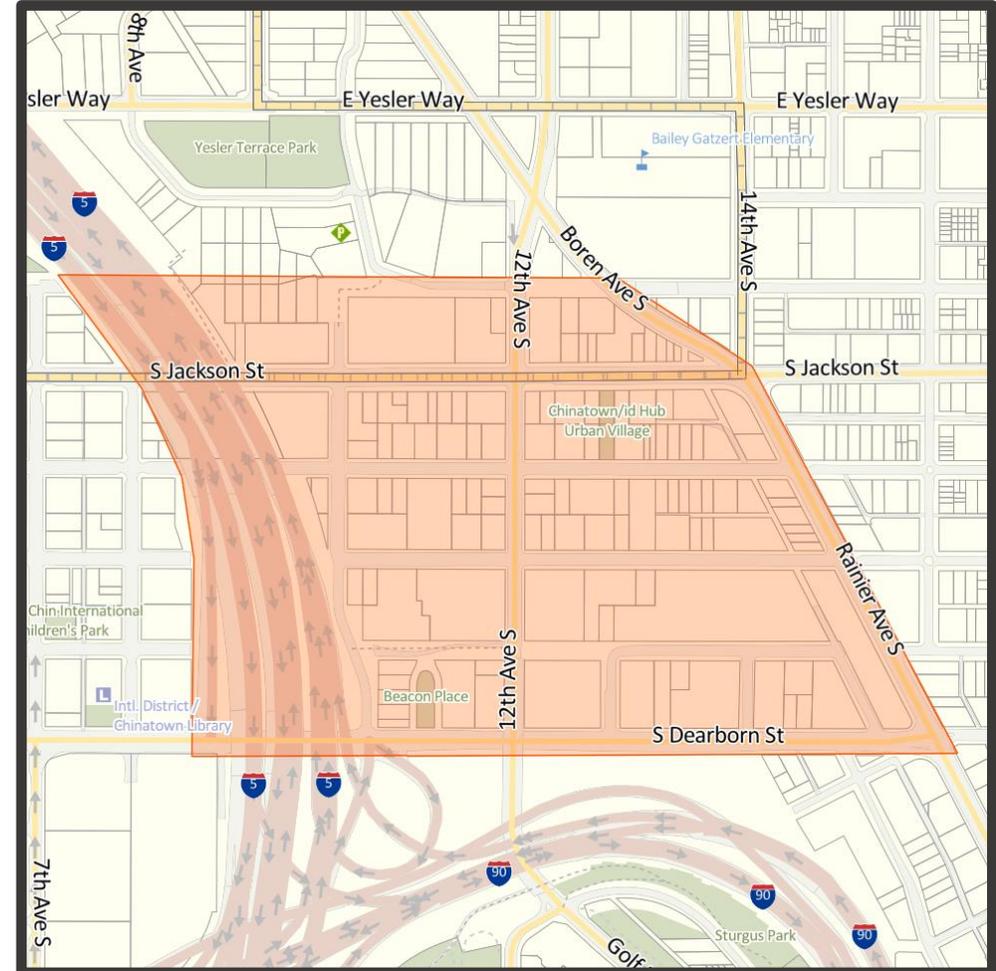


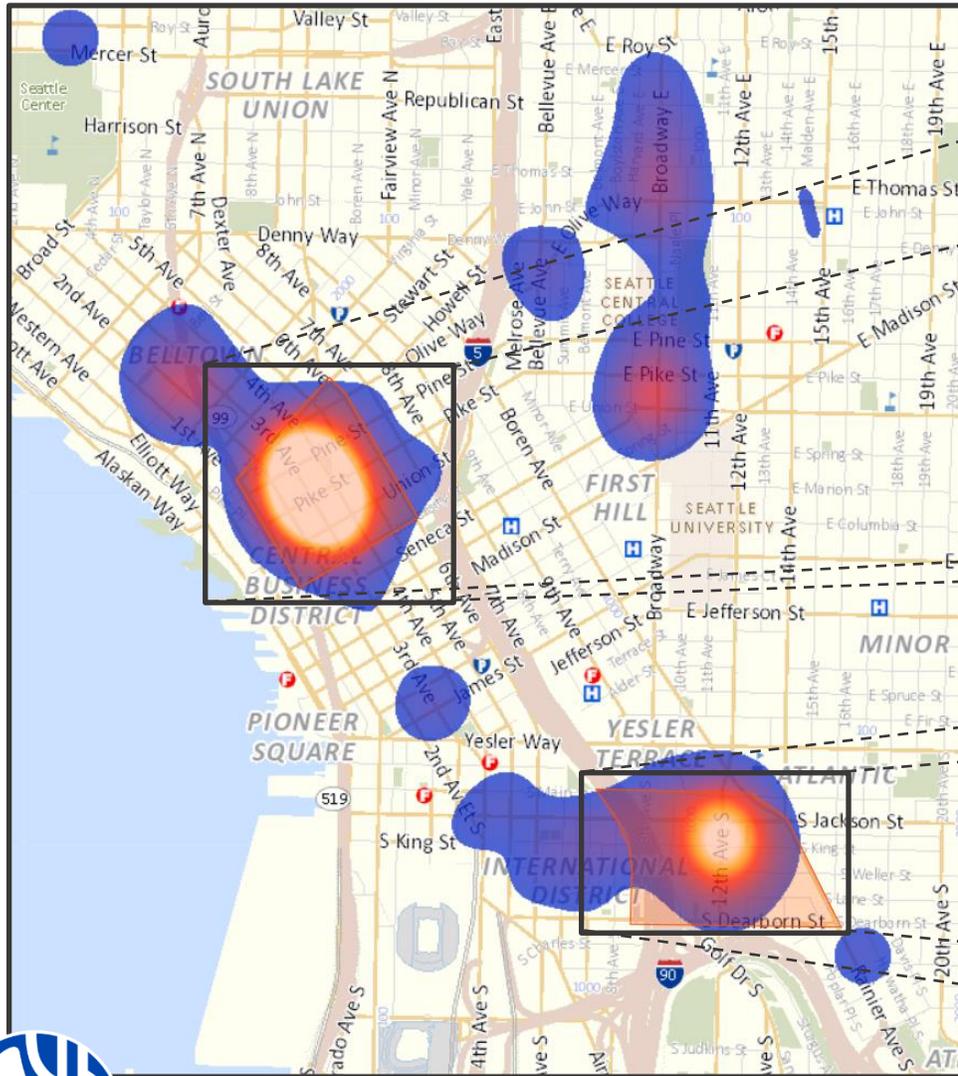


Downtown SODA

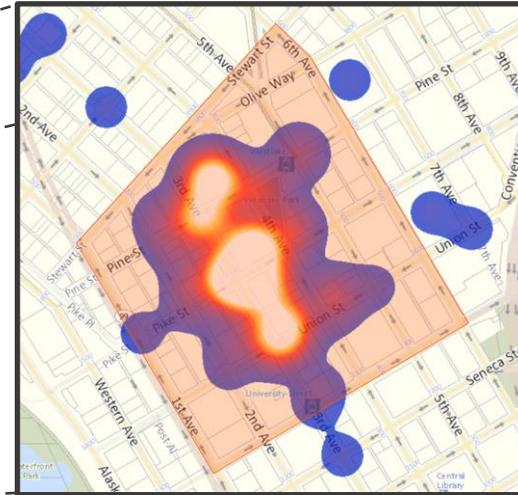


International District SODA

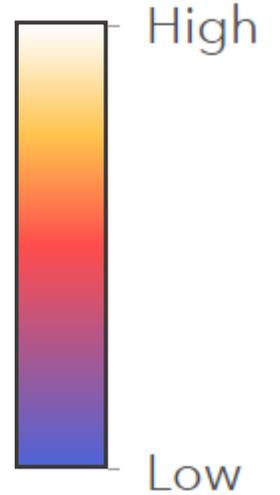
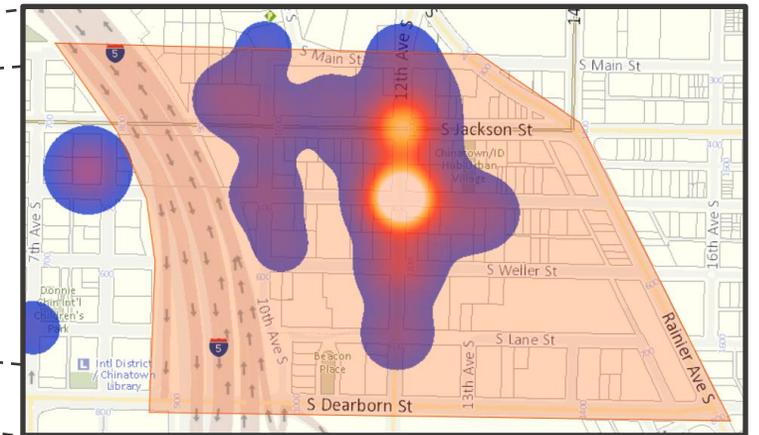




Downtown SODA

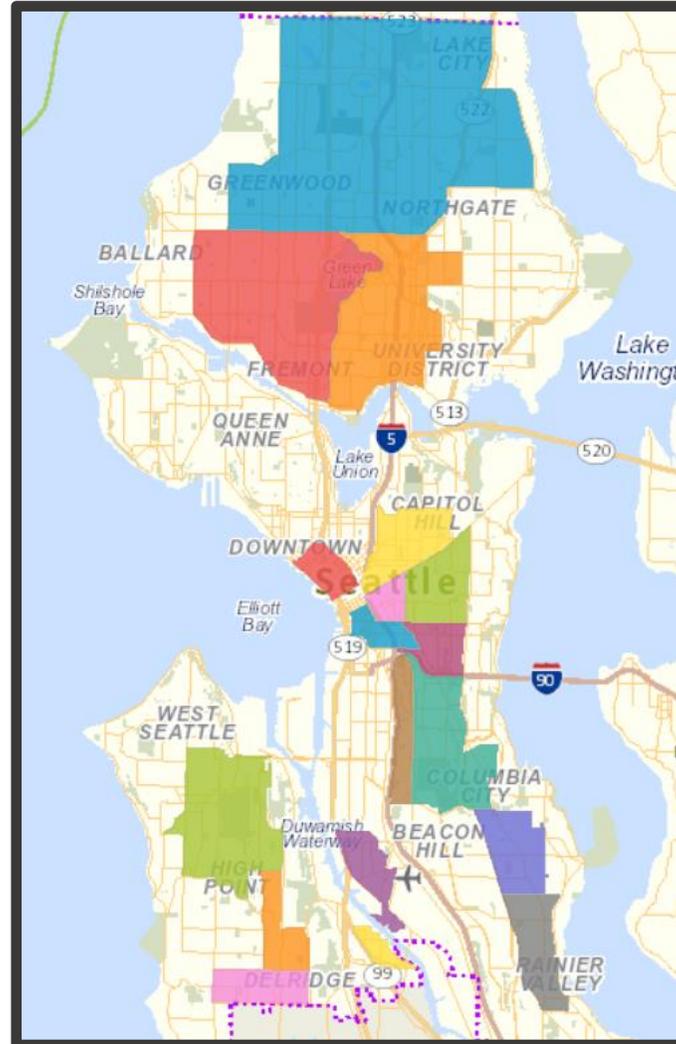


International District SODA



Questions?





(Discontinued approximately 2010)





Legislation Text

File #: CB 120836, **Version:** 1

AN ORDINANCE relating to prostitution; creating the crimes of prostitution loitering and promoting loitering for the purpose of prostitution; establishing policies governing arrests for prostitution and prostitution loitering; creating Stay Out of Area of Prostitution (SOAP) zones and providing for both the issuance of court orders relating to those zones and administration of those zones; creating the gross misdemeanor of violating a SOAP order; and adding new Sections 12A.10.010, 12A.10.030, and 12A.10.040 and a new Chapter 12A.11 to the Seattle Municipal Code.

The full text is provided as an attachment.

SUMMARY and FISCAL NOTE

Department:	Dept. Contact:	CBO Contact:
LEG	Ann Gorman/507-4126	

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to prostitution; creating the crimes of prostitution loitering and promoting loitering for the purpose of prostitution; establishing policies governing arrests for prostitution and prostitution loitering; creating Stay Out of Area of Prostitution (SOAP) zones and providing for the issuance of court orders relating to those zones; creating the gross misdemeanor of violating a SOAP order; and adding new Sections 12A.10.010, 12A.10.030, 12A.10.040 and a new Chapter 12A.11 to the Seattle Municipal Code.

Summary and Background of the Legislation:

This ordinance would restore to the Seattle Municipal Code (SMC) the misdemeanor criminal charge of prostitution loitering, which the Council removed in June 2020. As in the removed charge, an individual could be so charged either as a seller or buyer of sex acts. The ordinance would expand the number of circumstances that may be considered in determining whether an individual intends to commit prostitution loitering (i.e., it contains a greater number of such circumstances than were present in the SMC before June 2020). It would also create a new gross misdemeanor charge of promoting loitering for the purposes of prostitution. This charge could apply to individuals who commit such acts as repeatedly transporting another person to a known area of prostitution and/or repeatedly monitoring or surveilling a person or persons engaged in prostitution loitering.

The ordinance would require the Seattle Police Department (SPD) to take action related to prostitution-related crime, (1) reviewing and modifying as appropriate existing policies and training officers on any new or modified policy and (2) adopting policies governing arrests that seek to minimize harm caused by the criminal legal system to survivors of commercial sexual exploitation and that prioritize diversion and referral to services in its enforcement of the prostitution loitering charge. The ordinance also includes an annual data reporting component led by the Office of the Inspector General (OIG) with the participation of SPD and invites additional information and recommendations as a supplement to the report. The first report would be due at the end of 2026 and subsequent reports would be required at least annually until 2030. The ordinance also requests an additional, one-time report, which is described below at item 4a.

The ordinance would authorize the establishment, by the City, of Stay Out of Area of Prostitution (SOAP) zones, corresponding to geographical areas with a high level of illegal prostitution and/or criminal activity with a nexus to prostitution. It would establish SOAP Zone 1 and define it as “the area in north Seattle bordered on the north by N. 145th Street, on the south by N. 85th Street, on the east by Stone Avenue N., and on the west by Fremont Avenue N.” The ordinance would create the authority for a judge or a judge pro tempore of the Seattle Municipal

Court to issue a SOAP order to anyone charged with, or convicted of, any violation of prostitution-related crimes in a designated SOAP zone, either as a condition of pretrial release or as a condition of sentence. Violating a SOAP order would be a gross misdemeanor.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation have financial impacts to the City? Yes No

If there are no projected changes to expenditures, revenues, or positions, please delete the table below.

4. OTHER IMPLICATIONS

a. Please describe how this legislation may affect any departments besides the originating department.

The legislation makes changes to the Criminal Code (SMC Title 12A) that would be operationalized by the Seattle Police Department (SPD). The legislation was developed with input from SPD and the City Attorney's Office and the full impacts of their operationalization are not currently known. The legislation also creates new authority for judges and judges pro tempore at the Seattle Municipal Court. The degree to which these judges would make use of that authority, and the impacts of its operationalization, are not currently known. The legislation also requests that the Human Services Department (HSD), working in partnership with the City Innovation and Performance unit (IP) develop a proposal and recommendations for a new program that would assist survivors of commercial sexual exploitation in vacating prostitution-related convictions and/or clearing arrest history from their records. This obligation would require incremental work of HSD and IP staff, and the legislation does not include incremental budget to perform the work; it is possible that HSD and/or IP will need to reprioritize already known bodies of work to prepare the proposal and recommendations. It is also possible that these work products will imply a future, ongoing budget commitment by the City.

b. Does this legislation affect a piece of property? If yes, please attach a map and explain any impacts on the property. Please attach any Environmental Impact Statements, Determinations of Non-Significance, or other reports generated for this property.

No.

c. Please describe any perceived implication for the principles of the Race and Social Justice Initiative.

- i. How does this legislation impact vulnerable or historically disadvantaged communities? How did you arrive at this conclusion? In your response please consider impacts within City government (employees, internal programs) as well as in the broader community.**

This legislation would impact vulnerable or historically disadvantaged communities in that members of these communities are more likely to have been subject to commercial sexual exploitation thus potentially vulnerable to the prostitution loitering charge that the legislation would restore¹. The legislation explicitly recognizes that for such individuals, diversion, referral to social services, safe house placement, and other alternatives to booking are the preferred disposition.

The legislation also requests that SPD adopt policies governing arrests for prostitution loitering and the extant SMC prostitution charge (12A.10.020) consistent with that recognition. Such policies could have the effect of establishing different policies for sellers and buyers, under the proposed restored prostitution loitering charge, in acknowledgement of their different levels of vulnerability and/or historical disadvantage.

For individuals found in violation of the proposed new charge of promoting loitering for the purposes of prostitution, the legislation suggests that imprisonment and/or a fine are the appropriate punishments. In this way, the legislation distinguishes between sellers of sex, buyers of sex, and participants in the sex trade.

- ii. Please attach any Racial Equity Toolkits or other racial equity analyses in the development and/or assessment of the legislation.**

No formal Racial Equity Toolkit was conducted as part of the development or assessment of the legislation. Given the issues discussed above, the ordinance directs SPD, in its data-collection role relative to required annual reporting, to identify any racial disparities using methods that accord with evidence-based practices. The ordinance could later be amended responsive to any disparities so identified.

- iii. What is the Language Access Plan for any communications to the public?**

A Language Access Plan for communication to the public has not yet been developed.

¹ For example, the Victim Service Center of Central Florida cites a demographic [study](#) that showed that sex workers are over 40 percent Black, 33 percent Latinx, and only 6 percent fully white, finding this result supportive of evidence that systemic racism leads people of color disproportionately to sex work. A 2020 [report](#) by the Congressional Black Caucus Foundation states that having lower socioeconomic status increases the possibility that an individual will be sex trafficked.

d. Climate Change Implications

- i. Emissions: How is this legislation likely to increase or decrease carbon emissions in a material way? Please attach any studies or other materials that were used to inform this response.**

n/a

- ii. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

n/a

- e. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)? What mechanisms will be used to measure progress towards meeting those goals?**

n/a

5. CHECKLIST

Please click the appropriate box if any of these questions apply to this legislation.

- Is a public hearing required?**
- Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required?**
- If this legislation changes spending and/or revenues for a fund, have you reviewed the relevant fund policies and determined that this legislation complies?**
- Does this legislation create a non-utility CIP project that involves a shared financial commitment with a non-City partner agency or organization?**

6. ATTACHMENTS

List Summary Attachments (if any):

n/a

August 12, 2024

MEMORANDUM

To: Public Safety Committee
From: Council Central Staff
Subject: CB 120836 – Prostitution Crimes and Diversion

On August 13, 2024, the Public Safety Committee will discuss [Council Bill \(CB\) 120836](#), which would make several changes to the Seattle Municipal Code (SMC) Criminal Code pertaining to prostitution-related crimes with the intent of broadening the ability of law enforcement and prosecutors to take action against sex buyers and sex traffickers. First, it would restore the misdemeanor crime of **prostitution loitering**, which Council removed from the SMC in 2020. The proposed version of prostitution loitering, like the one that was removed, includes both the selling and the buying of sex, and it describes additional conduct that can be used to show intent to commit the crime. The additional focus on intent may assist the Seattle Police Department (SPD) and the prosecutor in determining that the charge is appropriate.

This bill would also create a new gross misdemeanor, **promoting loitering for the purpose of prostitution**. Promoting loitering for the purpose of prostitution would criminalize actions not currently addressed in the SMC, including repeatedly or continuously monitoring a person or persons engaged in prostitution loitering. This new crime is designed to address intermediate levels of culpable behavior by those who traffic prostitutes¹ that falls short of the evidence required to prove a felony charge of promoting prostitution.

CB 120836 would also authorize the City to establish Stay out of Area of Prostitution (SOAP) zones, defining these zones as geographically circumscribed areas within which a high level of illegal prostitution and/or criminal activity with a nexus to prostitution is taking place. It would operationalize SOAP zones by creating the authority for Seattle Municipal Court judges to issue SOAP exclusion orders ("**SOAP orders**").² Violation of a SOAP order would be a gross misdemeanor, committed by knowingly entering a prohibited area. Finally, CB 120836 would establish a **SOAP zone along the Aurora Avenue commercial corridor**, with southern and northern boundaries at North 85th Street and North 145th Street.³

While the bill restores the crime of prostitution loitering, it includes a new approach to enforcement for victims of exploitation and trafficking, emphasizing that the preferred dispositions for these individuals are diversion, referral to social services, safe house placement, and other alternatives to booking. Various provisions in the bill relate to the intended application of these proposed SMC changes and reporting on their outcomes. This memorandum describes the bill and discusses next steps.

¹ See "Terminology" section below.

² SOAP orders are thus a subset of court orders.

³ Specifically, the bill defines the proposed SOAP zone as "the area in north Seattle bordered on the North by N. 145th Street, on the South by N. 85th Street, on the East by Stone Avenue N., and on the West by Fremont Avenue N."

Background

Exclusion Orders

One way to think of an exclusion order is as a restraining order from a place rather than a person. An exclusion order is a court order requiring an individual to remain outside of a specified area or areas due to the combination of (1) the individual's charge for, or conviction of, a crime and (2) the documented occurrence of related crimes within the perimeter of the area or areas. In this sense, an exclusion order is a supervisory mechanism for someone who has had prior contact with the criminal justice system. Judges issuing such orders typically do so as a condition of pretrial release on bail, of a sentence, or of any alternative disposition. A SOAP order is one type of exclusion order. Like a violation of a restraining order issued in conjunction with an assault charge, a violation of a SOAP order as described in CB 120836, issued in conjunction with prostitution-related charge would be a distinct and separate crime.

Terminology⁴

In recent years, the term "sex work" has gained favor as a replacement for "prostitution." Those who support the former term cite their desire to use more neutral and/or expansive language that does not connote immorality or stigmatize behavior, to emphasize actions rather than status, and/or to contextualize consensual sex work within the larger labor movement, where workers are understood to have rights.

The context for CB 120836, on the other hand, is reflected by its use of the phrase "commercial sexual exploitation" (CSE).⁵ This phrase describes an ecosystem in which sex is sold in an inherently exploitive manner (unlike the ecosystem of consensual sex work). The participants in this ecosystem are sex sellers, sex buyers, and sex traffickers.

In a commonly used formulation, "'sex trafficking' encompasses the range of activities involved when a trafficker uses *force, fraud, or coercion* to compel another person to engage in a commercial sex act."⁶ Many studies have shown that the majority of people who sell sex for money are being trafficked and do not willingly participate in prostitution and that they are compelled to give the majority of funds received to a pimp or trafficker. References in this memo to prostitution and "prostitutes" are consistent with Revised Code of Washington (RCW) and SMC language.

⁴ The purpose of this section is to provide guidance to the reader, not to reference or explain anything in the SMC or the Revised Code of Washington (RCW).

⁵ In 2015, [ORD 124684](#) changed the name of SMC Section 12A.10.040 from "patronizing a prostitute" to "sexual exploitation." The fiscal note characterized the change as "[seeking] to more accurately label" the described crime. (Section 12A.10.040 was later repealed from the SMC, and the relevant RCW was incorporated by reference.)

⁶ U.S. Department of State, "About Human Trafficking." <https://www.state.gov/humantrafficking-about-human-trafficking/>

The bill's recitals make reference both to "pimps"⁷ and sex traffickers. Pimps are a type of trafficker: the former facilitate the sale of sex by others,⁸ and the latter "recruit, harbor, transport, provide, or obtain a person for the purpose of a commercial sex act" that is induced by force, fraud, or coercion.⁹

Where it is not important that usage in this memo aligns with RCW and/or SMC language, it sometimes refers to sellers and buyers of sex. Respectively, these terms mean prostitutes and their direct customers, or "johns." "CSE victims" also means sellers of sex within the CSE ecosystem. The memo occasionally references "survivors" of CSE for alignment with specific bill language.

Laws Governing Prostitution-related Crimes

The SMC currently includes two crimes related to prostitution. They are:

- [12A.10.020](#), prostitution, an agreement or offer to engage in sexual conduct with another person in exchange for a fee (a misdemeanor); and
- [12A.10.060](#), permitting prostitution, failing to halt or abate knowing use of premises under one's control for prostitution purposes (a misdemeanor).

Note that the first of these crimes applies to both sellers and buyers of sex, though City policy and practice has focused the application of 12A.10.010 on sellers. In addition, a Section of the Revised Code of Washington (RCW) has been incorporated by reference into the SMC, which has the legal effect of making it part of the SMC – thus within the jurisdiction of the Seattle Municipal Court – even though its legislative language does not appear there. That statute is:

- [RCW 9A.88.110](#), patronizing a prostitute, the paying of another person for sexual conduct either with that person or with a third person, pursuant to an understanding, or soliciting or requesting another person to engage in sexual conduct in return for a fee (a misdemeanor).

The RCW also contains other felony statutes related to prostitution, which SPD may enforce but must be referred to the King County Prosecuting Attorney's Office for filing (thus the Seattle Municipal Court has no role with respect to their adjudication). One example is RCW 9A.88.070, promoting prostitution in the first degree, which describes activities that are consistent with those of a pimp, as defined above.¹⁰

⁷ Many organizations, including some that provide services and assistance to sex trafficking victims, discourage use of the word "pimp" on the basis that it is racially coded. This term is not used in the SMC or the RCW.

⁸ Michelson, Erica, "A Comparison of DV/IPV and Sex Trafficking: How Understanding Batterers Can Help Develop Programming for "Boyfriend" Pimp/Traffickers." Online only chapter from [Broadening the Scope of Human Trafficking Research: A Reader, Second Edition](#). [heil nichols online chapter 02.pdf \(cap-press.com\)](http://heilnichols.com/online/chapter-02.pdf)

⁹ Trafficking Victims Protection Act (TVPA) of 2020, Pub. L. No. 106-386.

¹⁰ The RCW also includes the statute of promoting prostitution in the second degree (RCW 9A.88.080). The elements of this crime are "advances" or "profits from" prostitution. Both of these RCW statutes may be enforced by SPD but would not be adjudicated in Seattle Municipal Court.

June 2020 Repeal of Prostitution Loitering Crime

At its meeting on June 22, 2020, Council passed [Ordinance \(ORD\) 126099](#), which removed SMC Section 12A.10.010, the crime of prostitution loitering. The result of this legislative action was that a set of activities, which SPD previously had discretion to enforce and investigate up to and including the making of an arrest, were effectively decriminalized. The Council took this action in large part pursuant to a recommendation in the "[Seattle Reentry Workgroup Final Report](#)." That report, responsive to Council [Resolution \(RES\) 31637](#), fulfilled a request that the Mayor convene a workgroup to develop policies and strategies that would strengthen the City's effort to assist with reentry after incarceration. Report authors noted that individuals in the commercial sex industry were already at high risk for trafficking, abuse, and other exploitation and that bringing them into the criminal legal system was likely to exacerbate any underlying unmet needs and expose them to further physical and sexual harm caused by incarceration. They also noted that, in other cities with similar laws in effect, many women who had been participating in "legal, routine activities" had been arrested and that there was a disproportionate enforcement impact on women of color.

In its discussion of CB 119808, which became ORD 126099, Councilmembers referenced, for example, the "deep and harmful racist history" of loitering laws. They also affirmed a need that the court system prosecute sex traffickers and acknowledged that addiction often plays a role in sex work. Those participating in Public Comment prior to the bill's discussion and passage were generally supportive of it, from such perspectives as conceptualizing sex work as consensual exchange between adults, favoring its decriminalization and – from a self-described sex worker – noting that fear of enforcement by SPD had had the effect of driving sex workers to more private areas, where they were more vulnerable to predators.

Stay Out of Area of Prostitution (SOAP) Orders

SOAP zones as a law enforcement tool were developed in response to the social disorder created by concentrated open-air prostitution markets. A common definition of open-air markets describes them as operating in geographically well-defined areas at identifiable times so sellers and buyers can easily locate one another.¹¹ The SOAP zone proposed in CB 120836 is consistent with this framework.

Several jurisdictions in the state, including Fife, Everett, and Shoreline (since 1996), currently have SOAP zones, and judges in their municipal courts may issue SOAP orders. The intent of SOAP orders is to restrict sex buyers from areas in which sex sellers are known to operate, thus incrementally reducing demand. (Some jurisdictions have also used SOAP zones in a more targeted manner, including such facilities as schools within a SOAP zone to protect children from exposure to prostitution-related activity.) When sellers and buyers of sex know where to find each other, this activity tends to become geographically concentrated, with negative impacts to the communities in which those concentrations occur. SOAP orders also seek to decrease these impacts. Since 1975, at least 140 cities and counties in the United States have employed SOAP orders.¹²

¹¹ Harocopus, Alex, and Mike Hough, "[Drug Dealing in Open Air Markets](#)." Problem-Specific Guides Series No. 31, Community Oriented Policing Services, U.S. Department of Justice.

¹² National Center on Sexual Exploitation, "[S.O.A.P. Orders for Sex Buyers in the United States](#)." Report prepared for the National Institute of Justice, updated March 1, 2023.

Although they are a law enforcement tool, SOAP orders must be issued by a judge for a police officer to enforce a violation of such order. CB 120836 would give Seattle Municipal Court judges the authority to issue pretrial SOAP orders in cases where an underlying criminal charge has not been proven, which would allow for the temporary exclusion from a public space of a person who is still presumed innocent of the charged crime. In issuing such orders the judge would be bound by the requirements of CrRLJ 3.2, where the presumption is release without additional conditions.¹³ SOAP orders issued as a condition of sentence are lawful if they are reasonably related to the offense and tend to prevent the future commission of crime. Additionally, the legislation lists specific circumstances where presence in a SOAP zone is not a violation of the SOAP order.

SOAP in Seattle

Prior to 2010, SOAP orders – then styled as S.O.A.P. orders – were occasionally issued by Seattle Municipal Court judges pursuant to the judiciary’s authorized function of setting reasonable pretrial conditions of release and post-conviction conditions of probation. The Seattle Municipal Court presiding judge approved the SOAP zones, the boundaries for which were drafted by the City Attorney’s Office (CAO) based on SPD crime data. These zone boundaries, and the zones themselves, were not legislated by the Council, so SOAP order violations were treated only as probation violations, not standalone crimes.

Current concerns

In 2018 the federal government seized and shut down the classified advertising platform Backpage.com, which had been used nationally to facilitate connections between sellers and buyers of consensual sex. The government alleged that Backpage had also been used to facilitate sex trafficking and filed trafficking-related charges against the company and its leadership. (Owners of the platform were later convicted of promoting prostitution business enterprises and money laundering.) Shortly thereafter, new trafficking laws curtailed the business model of competitors to Backpage. SPD identifies a correlation between the shutdown of these platforms and an increase in public prostitution and sex trafficking – i.e., open-air prostitution markets – particularly along northern Aurora Avenue. SPD analysis suggests that simultaneously with this transition, national gangs began to become more involved in large-scale sex trafficking for financial gain, resulting in more turf wars among these gangs and gun violence among their members. SPD considers the proposed SOAP zone in CB 120836 a “hot spot” for crime. Hot spots are areas in which a high density of crimes occur compared to surrounding areas. SPD believes that within these hot spots, a relatively small number of people engaging in illegal behaviors have an outsized impact on the localized criminogenic environment and that SOAP orders would be an effective tool in mitigating these individuals’ impact.

¹³ CB 120836 provides for the termination of a SOAP order issued as a pretrial condition of release upon dismissal of the initial criminal charge.

Prior to the 2020 removal of the prostitution loitering crime, SPD seldom enforced this crime against prostitutes, but officers report that its availability in the SMC had allowed officers to engage suspected prostitutes in conversation. These conversations could be a tool for gathering information about pimps and sex traffickers, potentially in pursuit of subsequent criminal charges against them. Once the law was repealed, any such engagement with officers could take place only on a voluntary basis, because officers no longer had lawful authority to initiate the contact and potentially detain an individual. Thus if a pimp or trafficker observed a prostitute speaking to an officer, he¹⁴ would know that the contact was voluntary, and this knowledge could create the risk of personal danger for the prostitute. Also, around the time of the repeal officers began to separate from SPD at an unprecedented rate, requiring that many SPD officers on specialist details be redeployed to respond to 9-1-1 calls. This redeployment significantly decremented SPD's capacity to support trafficking investigations.

Law enforcement data and documentary evidence show gun violence associated with CSE along Aurora Avenue has significantly impacted the surrounding neighborhood communities. Constituents report that prostitution activity and the violence associated with it have created social disorder and public-safety risk, with impacts both to individuals and families and to businesses, which have sustained economic and property damage. Constituents have expressed a desire for City action while also expressing their preference that any legislation crafted to address this activity prioritize support services and "off-ramps" for CSE victims.

CB 120836

Prostitution loitering

CB 120836 would restore to the SMC the misdemeanor crime of prostitution loitering. As written both prior to the 2020 repeal and in CB 120836, this crime can be committed by both sellers and buyers of sex who are age 18 or older.¹⁵ This crime, SMC 12A.10.010, includes a number of circumstances that an officer may consider in determining whether an individual intended to commit a violation. They include repeatedly beckoning to, stopping or attempting to stop passersby in conversation; repeatedly stopping or attempting to stop vehicles (which both would be applicable to sellers of sex); and requesting the touching or exposing of genitals or female breasts to prove that someone is not a police officer (which would be applicable to buyers of sex).¹⁶ Despite the SMC language, prior to 2020 this law was primarily enforced against sex sellers.

¹⁴ Most pimps and traffickers are men. See Brown, Elizabeth Nolan, "[15 Facts about the Underground Sex Economy in America.](#)" Reason, March 14, 2014 and Wheeler, Alyssa Currier, "Trafficker Profile According to US Federal Prosecutions," Anti-Trafficking Review, issue 18, 2022, pp. 185-189, <https://doi.org/10.14197/atr.2012221813>

¹⁵ RCW 13.40.215 and 13.40.219 address juvenile dispositions for prostitution loitering arrests and charges. These dispositions include diversion of the alleged offense and presumption that the alleged offender is a trafficking victim. Restoring this charge in the SMC would not leave juveniles in a state of legal vulnerability.

¹⁶ The prostitution loitering charge in the SMC addresses activities that are committed by someone who "remains in a public place," who could be a seller or a buyer of sex. In other cities with a criminal code that includes prostitution loitering, that code also emphasizes the public nature of the described crime, which can likewise be committed by both sellers and buyers of sex. In contrast, the existing SMC prostitution charge does not include this public element, nor does the promoting loitering for the purpose of prostitution charge that this bill proposes.

In addition to restoring the historical SMC language, CB 120836 would add to the list of circumstances referenced above, creating bases specifically targeted at the behaviors of sex buyers. These include:

- After being beckoned by a person soliciting an act of prostitution, circling the area in question; and
- Stopping the motor vehicle in the traffic lane, or pulling over to the side of the road, or pulling around the corner on an adjacent street, or pulling into a parking lot and engaging in conversation with those soliciting, inducing, or enticing an act of prostitution.

The bill also adds “repeatedly approaching a motor vehicle, leaning into the vehicle and engaging in conversation with the driver,” which provides an additional circumstance focused on sellers.

These new circumstances are modeled after those in other jurisdictions’ prostitution loitering laws. (California Penal Code section 653.23)

The RCW statute of patronizing a prostitute is also applicable to buyers of sex. Proving this charge requires a finding that a fee for sexual conduct was offered and agreed upon by the parties involved in the transaction. Undercover operations may result in sex buyers’ arrest and potential charge for patronizing a prostitute. However, such operations require significant law enforcement personnel, and trials tend to have low success rates. Restoring the prostitution loitering charge, which can be sustained by easily observable buyer behaviors, may therefore be a more effective deterrent to the open-air activity that this bill seeks to address.

Seattle Municipal Court judges may require individuals who were convicted of a prostitution-related charge to attend Stopping Sexual Exploitation classes (or similar classes) – colloquially known as “john school” – as a condition of their sentences. [SMC 12A.10.070](#) describes the mandatory fees for defendants convicted of or entering into a diversion program for a prostitution-related offense (it also allows judges to reduce these fees by up to two-thirds upon a finding that the offender does not have the ability to pay). [RCW 9A.88.120](#) directs that at least 50 percent of funds received must be spent on prevention, including education programs for offenders, such as john school. Studies suggest that attending john school may reduce recidivism rates among sex buyers and that it can engender greater understanding of the CSE ecosystem and the harms it causes to sex sellers.¹⁷ The sponsor supports requirements for sex buyers, like john school, that hold them accountable for their actions, particularly for a first offense. The maximum penalty for a misdemeanor is 90 days in jail and a \$1,000 fine; any fees levied under 12A.10.070 would be additive to that amount.

It is the intent of the sponsor that SPD focus its enforcement efforts related to the proposed restored crime on sex buyers. SPD and CAO have both expressed to the sponsor in public conversation a preference and commitment to diversion services for CSE victims.

¹⁷ Demand Abolition, “John Schools: A practical, cost-effective way to reduce demand.” <https://www.demandabolition.org/news/john-schools-practical-cost-effective-way-reduce-demand>. October 5, 2016.

Promoting loitering for the purpose of prostitution

CB 120836 also would create the new crime of promoting loitering for the purpose of prostitution. With respect to the CSE ecosystem described above, this proposed crime is intended to provide a tool to address criminally culpable conduct by sex traffickers that does not rise to felony-level promoting prostitution. Like prostitution loitering, it would include circumstances that an SPD officer may consider in determining whether an individual intended to commit a violation. These circumstances include repeatedly transporting or delivering any person or persons to a known prostitution area or vicinity¹⁸ and, in such vicinity, repeatedly or continuously monitoring or surveilling a person engaged in loitering for the purpose of prostitution. (It may be instructive to recall the “force, fraud, or coercion” trafficking formulation cited above.)

Promoting prostitution in the first degree (RCW 9A.88.070) also describes activities that are consistent with this formulation. However, as written, the RCW statute would generally be challenging to prove without the testimony of a CSE victim against her trafficker.¹⁹ Advocates have reported that CSE victims open themselves to further trauma and/or personal danger in situations when such testimony is sought or provided. In contrast with the RCW statute, a charge of promoting loitering for the purpose of prostitution could theoretically be prosecuted based on the observable activities of a trafficker.

In that respect, the proposed crime is novel. From the sponsor’s perspective, its framework reflects a victim-centered approach to enforcement against CSE. Promoting loitering for the purpose of prostitution would be a gross misdemeanor, subject to a maximum penalty of 364 days in jail and/or a fine of up to \$5000.

SOAP zone

CB 120836 would establish a SOAP zone along the Aurora Avenue commercial corridor. The proposed boundaries of this zone are based on both analysis of SPD crime data and the input of community members in the sponsor’s district. It would allow Seattle Municipal Court judges to issue a SOAP order to anyone charged with, or convicted of

- Any violation, occurring in a designated SOAP area, of the following crimes: prostitution loitering, prostitution, promoting loitering for the purpose of prostitution, permitting prostitution, and patronizing a prostitute; and
- “A crime occurring in a designated SOAP zone in which the court finds a nexus between the offense and [the prostitution-related crimes listed above].”

In other words, there is a broad range of criminal activity, both at the charging and conviction phases, that could subject an individual to a SOAP order. The key phrase in the bill language is “nexus,” or a causal connection. Studies have found that there is a consistent pattern of correlation between prostitution activity and crime – particularly violent crime – reflecting such a causal link.

¹⁸ For instance, the proposed SOAP zone.

¹⁹ Most CSE victims are women.

As an example of what the bill would permit, someone arrested for one of the prostitution-related crimes listed above could be booked and charged for that crime and then arraigned before a Seattle Municipal Court judge. The judge, after finding probable cause, could require bail and issue a SOAP order as a separate condition of the individual's release. The individual would then be required to remain outside the SOAP zone defined in the bill, absent any exceptions set by the judge. If an SPD officer encountered this individual in a SOAP zone in violation of the court's active SOAP order, that officer would have discretion to arrest the individual, who could then be booked for the SOAP order violation. This violation would be a gross misdemeanor. (As for any criminal offense, the actual sentence imposed would be at the discretion of the sentencing judge in Seattle Municipal Court.)

SOAP order violation as a new crime

Under existing City code, a municipal judge has the authority to issue a SOAP order as a condition of pre-adjudication release or as part of a post-conviction sentence. In either case, violation of the SOAP order would not constitute a new criminal violation, with new potential penalties. Instead, any further sanctions would be related to the original underlying crime. As a practical matter, without the assistance of the CAO and SPD to establish an appropriate and documented geographic SOAP zone, municipal judges have not been well positioned to impose such orders.

As previously noted, CB 120836 would create the new gross misdemeanor of violation of a SOAP order, and at the same time define the boundaries of a SOAP zone on North Aurora Avenue. If a judge issues a SOAP order pursuant to this new law and the individual to which it applies violates the SOAP order, the violation would be a new and separate offense with its own discrete penalties. This might be seen as analogous to a judge issuing a no-contact order in the context of an assault. Violation of the no-contact order represents a new criminal violation, distinct and in addition to the alleged or actual assault.

The crime of violating a SOAP order can be proven on the basis that an individual was (1) subject to and had notice of an active SOAP order and (2) willfully violated the terms of that order by entering into or remaining within the prohibited area. In contrast to the elements of Promoting Loitering in for the Purpose of Prostitution or Prostitution loitering offenses, violation of a SOAP order is less fact intensive and may be more straightforward to prosecute.

Implementation, reporting, and recommendations

Consistent with the sponsor's intent that enforcement activities related to CB 120836 target sex buyers and sex traffickers, the bill directs SPD to

- adopt policies governing arrests for prostitution and prostitution loitering that seeks to minimize harm to survivors of CSE;
- conduct mandatory trainings, for officers, on best practices for interacting with CSE victims; and
- prioritize, to the best of its ability, the use of so-trained officers when interacting with CSE victims in the course of enforcement of prostitution-related crimes.

The bill notes that diversion, referral to social services, safe house placement, and other alternatives to booking are the preferred disposition for CSE victims. The sponsor supports diversion for first-time sex buyers.

CB 120836 calls for an implementation review, to be conducted or engaged by the Office of the Inspector General (OIG) and completed by June 2026. The bill also directs OIG to provide annual data reports, beginning in December 2026 and through at least December 2030, documenting law enforcement and adjudicative actions taken with respect to the new loitering for the purpose of prostitution crime and inviting recommendations for its improvement.

The bill also requests that the Human Services Department (HSD), in partnership with the City Innovation and Performance (IP) unit, develop a proposal and recommendations for a new program that would help CSE survivors vacate prostitution-related convictions from their records and/or clear such charges from their arrest histories. This report would be due to Council by August 31, 2025, a timeframe that would allow consideration of its recommendations during the 2026 Mid-Biennial Budget Adjustments process.

Anticipated Impact on Existing Criminal Activity

According to SPD, in broad strokes the goal of SOAP orders is to disrupt a crime hotspot in order to help restore public order, improve public safety and quality of life for area residents, invite lawful behavior, and foster lawful economic activity. When individuals with disproportionate criminogenic impact may be excluded from an area or areas where crime is concentrated, their exclusion may also be experienced disproportionately in a positive way. SOAP orders also expand the ability of SPD officers to engage in proactive policing in pursuit of the same improvements in that they would create a lawful basis for contact with such individuals. Based on their experience policing drug hotspots, SPD reports that some individuals who spend significant time in these areas have warrants for their arrest, including for felony violations, and they believe that the same is likely true for the proposed SOAP zone. The ability to engage with individuals believed to be subject to a SOAP order – based on reasonable and articulable suspicion – would increase SPD officers' ability to detain and arrest those whose presence poses a risk of harm to themselves or to others and contributes to a localized environment of criminality. Such detainments and arrests could also support ongoing SPD investigations of criminal enterprises that manifest, in part, within hotspot areas.

Assuming that Seattle Municipal Court judges act on the authority provided by CB 120836, the sponsor and SPD believe that the combined effect of the proposed new (1) promoting loitering for the purpose of prostitution, 2) loitering enforcement focused on buyers, and (3) violation of a SOAP order could provide a means to mitigate and potentially disrupt the open-air prostitution market along the Aurora Avenue commercial corridor, in that traffickers and buyers could be barred from that market.

Other ongoing efforts would also support the goal of disruption, for instance increased hiring of police officers and technology initiatives that provide greater evidentiary basis for criminal charges and investigations. The North Aurora Avenue area has been proposed as a location for such a technology initiative.

Fiscal and Operational Impact

SPD would bear some new costs associated with the proposed expanded enforcement purview, the development and/or revision of policies, and the provision of training as described in CB 120836. CAO would also incur incremental new costs associated with the proposed expanded prosecutorial purview, as would the Seattle Municipal Court for its roles in adjudication and sentencing. The City would also face additional costs associated with providing legal defense services for those facing additional charges or court-ordered restrictions. For all these entities, those costs will depend on the number of cases that are referred for charging, but the increase could be significant and sudden. The reporting requirements in the bill would pose new obligations for SPD, CAO, and OIG. More new costs would inhere should OIG engage an independent research organization to support the bill's reporting requirements. For the program proposal and recommendations that the bill requests, HSD and IP may also take on additional costs and/or reprioritize workload so that some other work products are delayed. It is currently not possible to develop an estimate of such costs or to predict any such delays.

The City is currently finalizing an interlocal agreement with the South Correctional Entity (SCORE) for the provision of jail services additive to those currently provided by King County at the King County Jail (KCJ). Specifically, the agreement will detail the operational and policy framework by which the City will use 20 SCORE beds for the booking of misdemeanor detainees. Ongoing constraints at KCJ have affected its capacity such that the City has access to fewer such beds there than was the case in 2019. To the extent that CB 120836 increases demand for jail beds beyond 20 – by virtue of a Seattle Municipal Court judge sentencing a buyer or trafficker to jail time for a prostitution-related offense or SOAP order violation – there will be additional cost to the City. The 20-bed SCORE contract has an estimated cost of \$2 million, exclusive of any costs related to transportation or detainee defense.

Issues for Consideration

Judicial authority and discretion: As described above, CB 120836 would give Seattle Municipal Court judges explicit authority to issue a SOAP order in cases involving a prostitution crime and in cases where the court finds a nexus between the charge or conviction and prostitution-related activity. The bill does not limit the types of crimes for which judges may find such nexus, which means that they may do so for *any* crime. It is possible that given the same evidence to evaluate in making that determination, different judges will make different articulable findings about whether or not such nexus exists. As is the nature of judicial decision making, the high amount of judicial discretion vested in courts of limited jurisdiction (such as the Seattle Municipal Court) allows for divergent outcomes from similar fact patterns.

CB 120836 would present Seattle Municipal Court judges with two distinct opportunities to exercise their discretion. First, they may find a nexus between a charge and prostitution-related crimes and issue a SOAP order on the basis of this finding. Second, they may authorize exceptions to the SOAP order, for instance to see family, to attend medical or social appointments, to fulfill work commitments (the bill references such exceptions). The degree to which judges would act on these opportunities is unknown at the time of this memo's publication.

SPD enforcement capacity: As of April, SPD had 913 deployable officers, a reduction from the pre-Covid figure of approximately 1400. With the support of Council and the Executive, the department is making significant investments in the recruiting and retention of officers, but any new enforcement responsibility must be balanced with existing workload in a resource-constrained environment, and the staffing deficit will require years of steady gains to overcome. According to SPD, re-establishing a lawful basis to contact individuals is likely to result in greater efficiencies and ultimately to reduce detective time downstream.

Efficacy of SOAP zones and orders: Central Staff have not found any rigorous evaluations suggesting that the use of SOAP orders (when issued by judges and comprehensively enforced by police departments) reduces sex buyers' demand or disrupts sex markets. However, quantifiable measurement of the impact of such interventions is at least difficult. Anecdotal evidence from law enforcement, extensive surveys of sex buyers, and criminological research on deterrence have all provided some evidence to suggest that SOAP orders deter demand. In particular, sex buyers have cited their fear that having to adhere to a SOAP order will cause people in their lives to learn about the behavior that led to its issuance.^{20, 21}

Officers from the Shoreline Police Department have shared with SPD that they believe the Shoreline Aurora Avenue SOAP Area has had a deterrent effect on prostitution and has disrupted that city's localized open-air sex market, alleviating the need for its police officers to perform focused patrols and enforcement activities in this area. The southern border of

²⁰ Some cities that issue SOAP orders and similar orders publish online lists of those who are currently subject to them. No such action is contemplated as an element of this bill.

²¹ National Center on Sexual Exploitation, "[S.O.A.P. Orders for Sex Buyers in the United States.](#)" Report prepared for the National Institute of Justice, updated March 1, 2023.

Shoreline's SOAP Area, North 145th Street, is the northern border of the SOAP zone proposed in this bill. It is possible that the establishment of the Shoreline SOAP Area pushed some prostitution activity south into Seattle, because individuals knew that they would not risk a SOAP order once they crossed North 145th Street.

SPD believes that the impacts of CB 120836 would not be best measured by statistics such as number of arrests for violating a SOAP order. The department would instead endorse a more holistic means of evaluating the impact of new SOAP zones that takes into account business activity and the perceptions of residents, visitors, and merchants as well as those of law enforcement stakeholders and the various community groups who are frustrated by current conditions in the proposed SOAP zone. SPD also believes that the use of Risk Terrain Modeling to monitor the impact of prostitution on select aspects of the criminological environment (currently, shots-fired incidents) could be another way to assess the impact of SOAP-related arrests on associated crime.

In developing CB 120836, it was the sponsor's intent to develop tools for enforcement that would target sex buyers and sex traffickers without a need that any sex seller participate in subsequent investigations and/or prosecutions. Both (1) the proposed addition of specific bases targeting the behaviors of sex buyers and (2) the proposed creation of the new prostitution loitering crime serve this purpose in that they describe behaviors being committed by a single individual, and those behaviors may alone serve as the basis for enforcement. They would additionally serve the purpose of obviating the need for women SPD officers to participate in undercover enforcement operations.

Research suggests that prostitution loitering laws may not be effective in reducing prostitution-related activity and that they have historically been used to target people – both sex sellers and sex buyers – based on their appearance or presumed sexual behaviors, such that they have disproportionately criminalized women, transgender, and Black, Indigenous, and people of color (BIPOC) individuals, as well as CSE victims. Such research led to the Council's 2020 removal of the prostitution loitering crime from the SMC Criminal Code. However, those who oppose prostitution loitering laws, including on the basis that they undermine anti-trafficking work, often cite the vagueness of those laws and their origin in racist and/or classist public-order concerns. CB 120836 includes clear and descriptive language about the behaviors that may lead to detainment or arrest, and unlike many jurisdictions' similar laws it explicitly references its CSE context and also emphasizes an intent that City laws addressing prostitution-related activity treat sex sellers, sex buyers, and sex traffickers differently. Central Staff had limited time to engage with the full body of research about prostitution loitering laws and SOAP orders.

Need for diversion resources: The bill states the preferred disposition for CSE victims – diversion, referral to social services, safe house placement, and other alternatives to booking– but it does not include additional funding for these resources. The sponsor has publicly stated plans to identify and propose ERC funding during Council's upcoming 2025-2026 budget process. Advocates for CSE victims have stated that for the diversion-centric aspect of the bill to be operationalized, the most critical need is ongoing funding for an emergency receiving center

(ERC) for CSE victims. An ERC is a 24-hour facility that functions as a small shelter, with case management and care connections tailored to sex sellers who want to leave the CSE ecosystem. The approximate annualized cost for an ERC with seven beds is \$700,000. In advancing this bill, it was the sponsor's intent to create a legislative and operational pathway to such diversion, in partnership with CAO and SPD and informed by the perspective of advocates for CSE victims.

Race and Social Justice Considerations

Root causes: In many cases, a sex seller's engagement in the behaviors described in CB 120836 12A.10.010 (prostitution loitering) and proposed for recriminalization have their roots in such factors as poverty, food and/or housing insecurity, lack of access to support resources or fearfulness about accessing them based on immigration status, and lack of remunerative employment opportunities, all of which disproportionately impact people of color. Meaningfully addressing these root causes, as a long-term strategy for improving public order and public safety issues, is beyond the scope of this bill.

Potential for real and/or perceived discriminatory enforcement: CB 120836 would allow SPD officers to approach and engage with an individual in a SOAP zone based on the reasonable and articulable suspicion that the individual is knowingly violating an active SOAP order. (The applicable legal standard for this type of brief detention, also known as a *Terry* stop, is a suspicion based on articulable facts that the individual is engaged in criminal activity.) The operational guidelines for such approach have not been developed. It is possible that perceived discriminatory enforcement of suspected SOAP orders may foster new tensions between police and those in SOAP zones. It is SPD's practice to track and analyze police contacts for any disparate outcomes, and the department believes it will be able to measure any such outcome and work to mitigate it.

Next Steps

The Public Safety Committee plans to vote on CB 120836, including any proposed amendments, on September 10. The bill could then be voted on by the City Council on September 17.

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