



Legislation Text

File #: CB 120247, Version: 3

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

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

WHEREAS, in 2017, the City Attorney's Office piloted a pre-filing diversion program for a number of

misdemeanor offenses for adults aged 18-24 in partnership with the community-based organization

Choose 180; and

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

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

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

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

WHEREAS, the Council also provided funding for the City Attorney's Office to conduct a Racial Equity

Toolkit assessing the concept of expansion; and

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

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

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

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

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

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

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

WHEREAS, the Seattle Times also reported that "[s]tudies have shown that jailing young people - in particular

for the type of lower-level crimes that make youths eligible for programs like Choose 180 - does little to make them fit to re-enter society. And the idea of ‘healing’ those who commit crimes has been treated as secondary to maintaining public order and safety, instead of a key element in achieving those ends.”; and

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

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

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

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

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

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

WHEREAS, currently, the City Attorney’s Office supports pre-booking diversion through staff attorneys

dedicated to support 1) LEAD; 2) Co-LEAD, an interim program of LEAD designed to provide services and stabilization for individuals who were not being arrested, charged or otherwise detained for alleged criminal law violations due to public health considerations regarding COVID-19; and 3) King County Vital, a program providing comprehensive support and case management for individuals with behavioral health and substance use disorder who are frequently involved in the criminal legal system; and

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

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

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

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

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

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

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

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

follows:

CHAPTER 3.46 CITY ATTORNEY'S OFFICE

3.46.010 Name and purpose

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

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

3.46.020 Duties

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

1. Percentage and number of cases charged compared to police reports declined or diverted;
2. Percentage and number of cases going to trial and for which offenses;
3. Percentage and number of charges resulting in conviction, including, but not limited to, dispositional continuances and the ultimate disposition in those cases;
4. The final disposition on all charged cases; and
5. As available in the criminal case management system, demographics, including race,

ethnicity, and gender for individuals for individuals in cases identified in subsections 3.46.020.A.1 through 3.46.020.A.4.

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

or successor programs:

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

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

D. The City Attorney's Office shall provide quarterly reports to the Chair of the Council committee with

jurisdiction over public safety with any changes from the scope of work as of 2021 for the attorneys and paralegals supporting pre-booking diversion programming and the reason for such changes, including, but not limited to:

1. The scope of discretion of the attorney making filing decisions for booked/in-custody reports and out of custody reports;
2. Coordinating negotiation for all enrolled clients with open Seattle Municipal Court cases;
3. Appearing at all substantive enrolled client hearings at Seattle Municipal Court;
4. Attending all LEAD operational workgroup meetings and other LEAD, Co-LEAD, and Vital meetings;
5. Training new staff working on pre-booking diversion;
6. Tracking information on enrolled clients; and
7. Primary focus of the pre-booking diversion attorneys on pre-booking diversion programming except for short-term coverage of other matters.

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

Passed by the City Council the _____ day of _____, 2021, and signed by me in open session in authentication of its passage this _____ day of _____, 2021.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2021.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2021.

Monica Martinez Simmons, City Clerk

(Seal)