

**SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact:</b>	<b>CBO Contact:</b>
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*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

**1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE relating to controlled substances; adding the crimes of possession of a controlled substance and use of a controlled substance in a public place; amending Section 12A.09.020 of the Seattle Municipal Code; and adding a new Section 3.28.141 to the Seattle Municipal Code.

**Summary and Background of the Legislation:** This legislation results from a collaborative effort to identify a public health approach to the public safety impact of public use and possession of controlled substances.

The legislation makes the use or possession of controlled substances in a public place a gross misdemeanor in the City of Seattle. Earlier in 2023, the Washington state legislature passed 2E2SSB 5536, which makes the use or possession of controlled substances in a public place a gross misdemeanor in the state of Washington. Revised Code of Washington (RCW) 69.50.608 and RCW 35.22.208(35) require the penalty and disposition provisions of the City’s criminal ordinances to be the same as provided for in state law. Adopting this legislation aligns the City’s provisions with the newly enacted state provisions and allows the City (via the City Attorney’s Office) to prosecute the use or possession of a controlled substance in a public place as a gross misdemeanor.

Importantly, this legislation clarifies that diversion – pre-arrest, post-arrest, or pre-file – is the preferred approach when enforcing public use and possession offenses. It also includes a threat of harm standard to help guide police officer decision-making and to reduce the likelihood of arrest. Lastly, this legislation expressly adopts the diversion requirements outlined in 2E2SSB 5536, Sections 2, 9, and 10.

**2. CAPITAL IMPROVEMENT PROGRAM**

**Does this legislation create, fund, or amend a CIP Project?**      \_\_\_ Yes X No

**3. SUMMARY OF FINANCIAL IMPLICATIONS**

**Does this legislation amend the Adopted Budget?**      \_\_\_ Yes X No

**Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

This legislation may increase the number of criminal charges filed in the Seattle Municipal Court. A significant increase could eventually result in a need for additional resources in the

City Attorney's Office, the Seattle Municipal Court, or an expansion of the City's contracted work with the King County Office of the Public Defender.

This legislation may also result in the need for additional investments in diversion systems, including at pre-arrest, arrest, pre-file, and post-file stages. This need will be explored by the diversion workgroup created as part of Mayor Harrell's Fentanyl Systems Work Group.

**Are there financial costs or other impacts of *not* implementing the legislation?**

We are unaware of any direct financial impacts as a result of not implementing this legislation.

#### **4. OTHER IMPLICATIONS**

**a. Does this legislation affect any departments besides the originating department?**

Resources in the City Attorney's Office and Seattle Municipal Court may be needed for prosecution of a gross misdemeanor resulting from this legislation. HSD may also require additional funding to support increases to diversion programs.

**b. Is a public hearing required for this legislation?**

No.

**c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**

No.

**d. Does this legislation affect a piece of property?**

No.

**e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

Historically in the United States, drug use and possession laws have disproportionately impacted BIPOC and other vulnerable communities. This legislation does not require arrest or prosecution for the gross misdemeanors it creates, nor is its goal arrest, prosecution, or incarceration. To the contrary, it identifies diversion as the preferred approach when enforcing these laws. This legislation is intended as one of several tools available to public safety teams and other responders, but the goal is to connect people with recovery services.

**f. Climate Change Implications**

**1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?**

No.

- 2. 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.

- g. 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)?**

N/A