



CITY OF SEATTLE

City Council

Agenda

Tuesday, June 6, 2023

2:00 PM

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

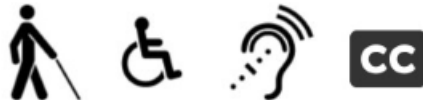
Debora Juarez, Council President
Lisa Herbold, Member
Andrew J. Lewis, Member
Tammy J. Morales, Member
Teresa Mosqueda, Member
Sara Nelson, Member
Alex Pedersen, Member
Kshama Sawant, Member
Dan Strauss, Member

Chair Info: 206-684-8805; Debora.Juarez@seattle.gov

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CITY OF SEATTLE

City Council Agenda

June 6, 2023 - 2:00 PM

Meeting Location:

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

Committee Website:

<http://www.seattle.gov/council>

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 <http://www.seattle.gov/council/committees/public-comment>. Online registration to speak will begin two hours 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.

Submit written comments to all Councilmembers at Council@seattle.gov

A. CALL TO ORDER

B. ROLL CALL

C. PRESENTATIONS

D. PUBLIC COMMENT

Members of the public may sign up to address the Council for up to 2 minutes on matters on this agenda; total time allotted to public comment at this meeting is 20 minutes.

E. ADOPTION OF INTRODUCTION AND REFERRAL CALENDAR:

Introduction and referral to Council committees of Council Bills (CB), Resolutions (Res), Appointments (Appt), and Clerk Files (CF) for committee recommendation.

[IRC 396](#)

June 6, 2023

Attachments: [Introduction and Referral Calendar](#)

F. APPROVAL OF THE AGENDA**G. APPROVAL OF CONSENT CALENDAR**

The Consent Calendar consists of routine items. A Councilmember may request that an item be removed from the Consent Calendar and placed on the regular agenda.

Journal:

1. [Min 430](#) May 30, 2023

Attachments: [Minutes](#)

Bills:

2. [CB 120589](#) AN ORDINANCE appropriating money to pay certain claims for the week of May 22, 2023 through May 26, 2023 and ordering the payment thereof; and ratifying and confirming certain prior acts.

Appointments:**SUSTAINABILITY AND RENTERS' RIGHTS COMMITTEE:**

3. [Appt 02576](#) Appointment of Kate Rubin as member, Seattle Renters' Commission, for a term to February 28, 2025.

The Committee recommends that City Council confirm the Appointment (Appt).

In Favor: 3 - Sawant, Lewis, Morales

Opposed: None

Attachments: [Appointment Packet](#)

4. [Appt 02577](#) Appointment of Julissa Sanchez as member, Seattle Renters' Commission, for a term to February 28, 2025.

The Committee recommends that City Council confirm the Appointment (Appt).

In Favor: 3 - Sawant, Lewis, Morales

Opposed: None

Attachments: [Appointment Packet](#)

H. COMMITTEE REPORTS

Discussion and vote on Council Bills (CB), Resolutions (Res), Appointments (Appt), and Clerk Files (CF).

CITY COUNCIL:

1. [CB 120586](#) 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; and amending Section 12A.09.020 of the Seattle Municipal Code.

Supporting

Documents: [Summary and Fiscal Note](#)
[Proposed Amendment A](#)
[Central Staff Memo](#)

I. ITEMS REMOVED FROM CONSENT CALENDAR

J. ADOPTION OF OTHER RESOLUTIONS

K. OTHER BUSINESS

L. ADJOURNMENT



Legislation Text

File #: IRC 396, **Version:** 1

June 6, 2023



Introduction and Referral Calendar

List of proposed Council Bills (CB), Resolutions (Res), Appointments (Appt) and Clerk Files (CF) to be introduced and referred to a City Council committee

Record No.	Title	Committee Referral
<u>By: Strauss</u>		
1. CB 120588	AN ORDINANCE relating to land use and zoning; adopting a moratorium on the filing, acceptance, processing, and/or approval of applications for the replacement of floating on-water residences that are vessels as defined by Section 23.60A.942 of the Seattle Municipal Code; adopting a work plan; and ratifying and confirming certain prior acts.	City Council
<u>By: Mosqueda</u>		
2. CB 120589	AN ORDINANCE appropriating money to pay certain claims for the week of May 22, 2023 through May 26, 2023 and ordering the payment thereof; and ratifying and confirming certain prior acts.	City Council
<u>By: Strauss</u>		
3. CB 120591	AN ORDINANCE relating to land use and zoning; correcting typographical and other technical errors, correcting section references, and clarifying regulations in sections that relate or may apply to low-income housing and other developments with units subject to affordability restrictions; amending, adopting new, and repealing obsolete defined terms relating to affordability of and eligibility to reside in certain housing; increase consistency and clarity of provisions that relate to low-income housing and restricted units; amending a limited number of provisions, including applicability of design review and authorization to request waiver or modification of certain development standards, to facilitate development of low-income housing; amending the title of Sections 23.44.019, 23.45.550, 23.47A.040, 23.48.100, and 23.49.007, amending Sections 22.900G.015, 23.34.012, 23.34.020, 23.41.004, 23.42.055, 23.42.057, 23.42.070, 23.44.024, 23.44.034, 23.44.041, 23.45.510, 23.45.512, 23.45.516, 23.47A.004, 23.47A.005, 23.47A.013, 23.48.005, 23.48.020, 23.48.232, 23.48.605, 23.48.920, 23.49.008, 23.49.010, 23.49.012, 23.49.014, 23.49.023, 23.49.037, 23.49.041, 23.49.058, 23.49.164, 23.49.180, 23.54.015, 23.58A.002, 23.58A.003, 23.58A.004, 23.58A.014, 23.58A.024, 23.58A.042, 23.58B.010, 23.58B.020, 23.58B.025, 23.58B.040, 23.58B.050, 23.58B.060, 23.58C.020, 23.58C.025, 23.58C.030, 23.58C.040, 23.58C.050, 23.66.100, 23.66.310, 23.70.008, 23.70.010, 23.72.002, 23.72.010, 23.73.010, 23.73.016, 23.75.020, 23.75.085, 23.76.032,	Land Use Committee

23.76.060, 23.84A.002, 23.84A.016, 23.84A.024, 23.84A.025, 23.84A.030, 23.84A.032, 23.84A.038, 23.84A.040, and 23.86.007, and repealing Sections 23.49.015 and 23.49.181 of the Seattle Municipal Code.

By: Strauss

4. [CB 120592](#) AN ORDINANCE relating to land use and zoning; updating regulations for rooftop features in the Pioneer Square Preservation District; and amending Sections 23.49.008 and 23.66.140 of the Seattle Municipal Code. Land Use Committee

By: Lewis

5. [CB 120590](#) AN ORDINANCE relating to the Waterfront Park and public spaces; authorizing the Superintendent of Parks and Recreation and the Director of the Seattle Center to execute for and on behalf of The City of Seattle an agreement with Friends of Waterfront Seattle for operation and maintenance of Waterfront Park and public spaces; and ratifying and confirming certain acts. Public Assets and Homelessness Committee

By: Herbold

6. [Res 32094](#) A RESOLUTION concerning wage equity for non-profit human services workers; expressing the City Council's intent to consider increasing human services contracts to support wage equity in collaboration with other funders; and requesting information and action from the Executive to advance human services workers wage equity. Public Safety and Human Services Committee



Legislation Text

File #: Min 430, **Version:** 1

May 30, 2023

SEATTLE CITY COUNCIL

600 Fourth Ave. 2nd Floor
Seattle, WA 98104



Journal of the Proceedings of the Seattle City Council

Tuesday, May 30, 2023

2:00 PM

Council Chamber, City Hall

600 4th Avenue

Seattle, WA 98104

City Council

Debora Juarez, Council President

Lisa Herbold, Member

Andrew J. Lewis, Member

Tammy J. Morales, Member

Teresa Mosqueda, Member

Sara Nelson, Member

Alex Pedersen, Member

Kshama Sawant, Member

Dan Strauss, Member

Chair Info: 206-684-8805; Debora.Juarez@seattle.gov

A. CALL TO ORDER

The City Council of The City of Seattle met in the Council Chamber in Seattle, Washington, on May 30, 2023, pursuant to the provisions of the City Charter. The meeting was called to order at 2:01 p.m., with Council President Pro Tem Herbold presiding.

B. ROLL CALL

Present: 6 - Herbold, Lewis, Morales, Nelson, Pedersen, Strauss

Excused: 3 - Juarez, Mosqueda, Sawant

Motion was made, duly seconded and carried, to excuse Councilmember Mosqueda from the May 30, 2023 City Council meeting.

Motion was made, duly seconded and carried, to excuse Councilmember Sawant from the May 30, 2023 City Council meeting.

By unanimous consent, the Council Rules were suspended to designate Councilmember Pedersen as President Pro Tem of the City Council for the remainder of the meeting.

C. PRESENTATIONS

There were none.

D. PUBLIC COMMENT

The following individuals addressed the Council:

Alex Tsimmerman
James Fackler

E. ADOPTION OF INTRODUCTION AND REFERRAL CALENDAR:

[IRC 395](#) **May 30, 2023**

Motion was made, duly seconded and carried, to adopt the Introduction & Referral Calendar (IRC) by the following vote:

In Favor: 6 - Herbold, Lewis, Morales, Nelson, Pedersen, Strauss

Opposed: None

F. APPROVAL OF THE AGENDA

Motion was made, duly seconded and carried, to adopt the proposed Agenda.

G. APPROVAL OF CONSENT CALENDAR

Motion was made, duly seconded and carried, to adopt the Consent Calendar.

Journal:

1. [Min 429](#) **May 23, 2023**

The item was adopted on the Consent Calendar by the following vote, and the President signed the Minutes:

In Favor: 6 - Herbold, Lewis, Morales, Nelson, Pedersen, Strauss

Opposed: None

Bills:

2. [CB 120583](#) **AN ORDINANCE appropriating money to pay certain claims for the week of May 15, 2023 through May 19, 2023 and ordering the payment thereof; and ratifying and confirming certain prior acts.**

The item was passed on the Consent Calendar by the following vote, and the President signed the Council Bill (CB):

In Favor: 6 - Herbold, Lewis, Morales, Nelson, Pedersen, Strauss

Opposed: None

Appointments:**PUBLIC SAFETY AND HUMAN SERVICES COMMITTEE:**

- 3. [Appt 02504](#) **Appointment of Adrien G. Leavitt as member, Community Police Commission, for a term to December 31, 2023.**

The Committee recommends that City Council confirm the Appointment (Appt).

**In Favor: 4 - Herbold, Mosqueda, Nelson, Pedersen
Opposed: None**

The item was confirmed on the Consent Calendar by the following vote:

In Favor: 6 - Herbold, Lewis, Morales, Nelson, Pedersen, Strauss

Opposed: None

H. COMMITTEE REPORTS

ECONOMIC DEVELOPMENT, TECHNOLOGY, AND CITY LIGHT COMMITTEE:

- 1. [CB 120576](#) **AN ORDINANCE relating to the City of Seattle accepting easements, each granting to The City of Seattle an easement for overhead or underground electrical distribution rights upon, under and across real property in King County, Washington; placing said easements under the jurisdiction of the City Light Department; and ratifying and confirming certain prior acts.**

The Committee recommends that City Council pass the Council Bill (CB).

**In Favor: 3 - Nelson, Herbold, Strauss
Opposed: None**

The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

In Favor: 6 - Herbold, Lewis, Morales, Nelson, Pedersen, Strauss

Opposed: None

2. [CB 120577](#) **AN ORDINANCE** relating to the City of Seattle accepting easements for overhead or underground electrical distribution rights upon, under and across real property in King County, Washington; placing said easements under the jurisdiction of the City Light Department; and ratifying and confirming certain prior acts.

The Committee recommends that City Council pass the Council Bill (CB).

In Favor: 3 - Nelson, Herbold, Strauss

Opposed: None

The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

In Favor: 6 - Herbold, Lewis, Morales, Nelson, Pedersen, Strauss

Opposed: None

I. ITEMS REMOVED FROM CONSENT CALENDAR

There were none.

J. ADOPTION OF OTHER RESOLUTIONS

There were none.

K. OTHER BUSINESS

There was none.

L. ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 2:16 p.m.

Emilia M. Sanchez, Deputy City Clerk

Signed by me in Open Session, upon approval of the Council, on June 6, 2023.

Debora Juarez, Council President of the City Council

Anne Frantilla, Interim City Clerk



Legislation Text

File #: CB 120589, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE appropriating money to pay certain claims for the week of May 22, 2023 through May 26, 2023 and ordering the payment thereof; and ratifying and confirming certain prior acts.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Payment of the sum of \$31,882,950.06 on PeopleSoft 9.2 mechanical warrants numbered 4100688852 - 4100690514 plus manual or cancellation issues for claims, e-payables of \$94,369.13 on PeopleSoft 9.2 9100013392 - 9100013424, and electronic financial transactions (EFT) in the amount of \$97,524,657.35 are presented to the City Council under RCW 42.24.180 and approved consistent with remaining appropriations in the current Budget as amended.

Section 2. Payment of the sum of \$56,043,184.18 on City General Salary Fund mechanical warrants numbered 51383191 - 51383899 plus manual warrants, agencies warrants, and direct deposits numbered 220001 - 222905 representing Gross Payrolls for payroll ending date May 23, 2023, as detailed in the Payroll Summary Report for claims against the City that were reported to the City Council June 01, 2023, is approved consistent with remaining appropriations in the current budget as amended.

Section 3. RCW 35.32A.090(1) states, “There shall be no orders, authorizations, allowances, contracts or payments made or attempted to be made in excess of the expenditure allowances authorized in the final budget as adopted or modified as provided in this chapter, and any such attempted excess expenditure shall be void and shall never be the foundation of a claim against the city.”

Section 4. Any act consistent with the authority of this ordinance taken prior to its effective date is

ratified and confirmed.

Section 5. 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 6th day of June, 2023, and signed by me in open session in authentication of its passage this 6th day of June, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this ____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Anne Frantilla, Interim City Clerk

(Seal)



Legislation Text

File #: Appt 02576, **Version:** 1

Appointment of Kate Rubin as member, Seattle Renters' Commission, for a term to February 28, 2025.

The Appointment Packet is provided as an attachment.



City of Seattle Boards & Commissions Notice of Appointment

Appointee Name: <i>Kate Rubin</i>		
Board/Commission Name: <i>Seattle Renters' Commission</i>		Position Title: <i>Member</i>
<input checked="" type="checkbox"/> Appointment OR <input type="checkbox"/> Reappointment		Council Confirmation required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Appointing Authority: <input checked="" type="checkbox"/> Council <input type="checkbox"/> Mayor <input type="checkbox"/> Other: <i>Fill in appointing authority</i>	Date Appointed: <i>6/2/2023</i>	Term of Position: * <i>3/1/2023</i> to <i>2/28/2025</i> <input type="checkbox"/> <i>Serving remaining term of a vacant position</i>
Residential Neighborhood: <i>Beacon Hill</i>	Zip Code: <i>98144</i>	Contact Phone No.:
Background: <i>Kate Rubin is a renter living in Beacon Hill. She serves as the organizing director and co-executive director at Be:Seattle, a grassroots non-profit organization focused on housing justice. Kate has played an instrumental role in advancing various tenant protections in Seattle. She strives to empower renters to advocate for their communities and organize for landlord accountability and stronger tenant protections. Her unwavering commitment to social justice drives her advocacy efforts as she fights for greater equity and affordability in Seattle's housing landscape.</i>		
Authorizing Signature (original signature): 	Appointing Signatory: <i>Kshama Sawant</i> <i>Seattle City Councilmember (District 3)</i>	

*Term begin and end date is fixed and tied to the position and not the appointment date.

Kate Rubin

Objective: To obtain a position as a Commissioner on the Seattle Renters' Commission, utilizing my connections to the renter community, lived experience as a current Seattle renter, and background in advocacy and community organizing to represent the diverse perspectives of renters in Seattle and contribute to the Commission's efforts to promote affordable, safe, and equitable housing for all residents.

Summary: Highly motivated and results-oriented community organizer with a passion for affordable housing advocacy. Currently serving as Organizing Director/Co-Executive Director of Be:Seattle, where I lead and manage a team of staff and volunteers in developing and implementing programs to build the power and leadership of renters and people experiencing homelessness to fight displacement and increase access to housing in Seattle that is affordable for all. Skilled in building and leading diverse teams, advocacy. Adept at cultivating strong relationships with stakeholders, government officials, and community partners to achieve organizational goals.

Experience:

Organizing Director/Co-Executive Director, Be:Seattle (January 2020-Present)

- Lead and manage a team of staff and volunteers in developing and implementing programs to build the power and leadership of renters and people experiencing homelessness to fight displacement and increase access to housing in Seattle that is affordable for all.
- Develop and implement strategic plans to achieve the organization's goals, including fundraising, outreach, and policy advocacy.
- Collaborate with local officials, community leaders, and organizations to advance policy initiatives and address community needs.
- Develop organizing campaigns to educate and engage renters on tenant rights and protections.
- Coordinate with coalition partners to advance city and statewide policy initiatives for renters and the unhoused community
- Leverage digital organizing and communications tools to build a robust and engaged renter advocacy community.
- Develop and maintain strong relationships with stakeholders and community partners to ensure long-term sustainability and impact.

Skills:

- Community organizing and outreach
- Leadership and management
- Affordable housing advocacy
- Policy advocacy
- Program development
- Strong communication and interpersonal skills
- Team building and collaboration

Seattle Renters' Commission

15 Members: Pursuant to *Ordinance 125280*, all members subject to City Council confirmation, 2-year terms:

Appointing Authority for SRC Member Positions

- 6 City Council-appointed (Positions 1 through 6)
- 6 Mayor-appointed (Positions 7 through 12)
- 2 Commission-appointed (Positions 13 and 14)
- 1 Other Appointing Authority-appointed (specify): Get Engaged Program (Position 15)

Roster:

*D	**G	RD	Position No.	Position Title	Name	Term Begin Date	Term End Date	Term #	Appointed By
	M	7	1.	Member	Atif Osmani	3/1/22	2/28/24	1	Council
3	F	3	2.	Member	Julissa Sanchez	3/1/23	2/28/25	1	Council
6	M	7	3.	Co-Chair	Dan Godfrey	3/1/22	2/28/24	1	Council
6	F	2	4.	Member	Kate Rubin	3/1/23	2/28/25	1	Council
			5.	Member		3/1/22	2/28/24		Council
			6.	Member		3/1/23	2/28/25		Council
6	O	6	7.	Member	Char Smith	3/1/22	2/28/24	1	Mayor
			8.	Member		3/1/23	2/28/25		Mayor
6	F	3	9.	Co-Chair	Kim McGillivray	3/1/22	2/28/24	1	Mayor
			10.	Member		3/1/23	2/28/25		Mayor
			11.	Member	Sendia (Schnidine) Registin	3/1/22	2/28/24	1	Mayor
			12.	Member		3/1/23	2/28/25		Mayor
3	T	4	13.	Member	Arianna Laureano	3/1/22	2/28/24	1	Commission
			14.	Member		3/1/23	2/28/25		Commission
			15.	Get Engaged Member	Lydia Felty	9/1/22	8/31/23	1	Get Engaged Program

SELF-IDENTIFIED DIVERSITY CHART

			(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)		
	Male	Female	Transgender /Non-Binary	NB/ O/ U	Asian	Black/ African American	Hispanic/ Latino	American Indian/ Alaska Native	Other	Caucasian/ Non-Hispanic	Pacific Islander	Middle Eastern	Multiracial
Mayor		1		1						2			
Council	2	2					1			2			
Other			1				1						
Total													

Key:

*D List the corresponding *Diversity Chart* number (1 through 9)

**G List gender, M= Male, F= Female, T= Transgender, NB= Non-Binary O= Other U= Unknown

RD Residential Council District number 1 through 7 or N/A

Diversity information is self-identified and is voluntary.



Legislation Text

File #: Appt 02577, **Version:** 1

Appointment of Julissa Sanchez as member, Seattle Renters' Commission, for a term to February 28, 2025.

The Appointment Packet is provided as an attachment.



City of Seattle Boards & Commissions Notice of Appointment

Appointee Name: <i>Julissa Sanchez</i>		
Board/Commission Name: <i>Seattle Renters' Commission</i>		Position Title: <i>Member</i>
<input checked="" type="checkbox"/> Appointment OR <input type="checkbox"/> Reappointment		Council Confirmation required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Appointing Authority: <input checked="" type="checkbox"/> Council <input type="checkbox"/> Mayor <input type="checkbox"/> Other: <i>Fill in appointing authority</i>	Date Appointed: <i>6/2/2023</i>	Term of Position: * <i>3/1/2023</i> to <i>2/28/2025</i> <input type="checkbox"/> <i>Serving remaining term of a vacant position</i>
Residential Neighborhood: <i>Capitol Hill</i>	Zip Code: <i>98122</i>	Contact Phone No.:
Background: <i>Julissa Sanchez worked as a Community Organizer and Tenant Rights Counselor for the Tenants Union of Washington from 2018 through 2022. She is excited to bring to the Seattle Renters Commission her housing justice expertise, centering the experience of BIPOC, and in particular Latinx, renters. She found her time at the Tenants Union enriching and is confident she can help provide solutions to tenant issues with a vision of housing justice.</i>		
Authorizing Signature (original signature): 	Appointing Signatory: <i>Kshama Sawant</i> <i>Seattle City Councilmember (District 3)</i>	

*Term begin and end date is fixed and tied to the position and not the appointment date.

JULISSA SANCHEZ

Human rights advocate with extensive experience engaging diverse populations, liaison between community and stakeholders, create anti-racist policy and grassroots campaigns to win protections against displacement and discrimination. Native Spanish speaker who advocates for language justice, serving as an advocate, educator, and personal point of contact for thousands of BIPOC tenants across the state of Washington.

KEY SKILLS & COMPETENCIES

Proven Social Justice Advocate • Coalition Building • Community Engagement & Interpersonal Skills • Outreach & Advocacy • Project Management • Policy Advising • Strong Researcher, Writer, and Analyst • Curriculum Development, Training, and Facilitation • Innovative Thought Partner • Data Management • Event Planning • Office Administration • Organization Development • Budget Management • Public Speaking • Leadership • Bilingual in Spanish and English • Staff Management • Volunteer Training • Marketing & Promotion • Dedicated Social Media Manager

PROFESSIONAL EXPERIENCE

Director of Advocacy, CHOOSE180

King County | January 2023- Present

- Centering individuals and communities who have been impacted by the justice system with resources.
- Changing systems to end the school to prison pipeline through policy, education and resources.

Eviction Prevention and Rental Assistance Program, EPRAP Equity Advisory Committee Member

King County King County | Dec 2021 - Jul 2022

- Served as an advisor to King County Department of Community and Human Services on how to equitably distribute EPRAP funds and serve BIPOC communities.
- Acted as a liaison between King County and tenants.

Community Organizer and Tenants Rights Counselor

Tenants Union of Washington State | Seattle, WA | January 2018 – January 2023

- Equity and Language Justice Program Lead
- Directed the statewide Latinx/Spanish education program on housing Justice during the COVID housing crisis, case managing over 50 cases a month, advocating for tenants, and connected them to social and legal resources appreciate for their case
- Created a tenants' rights education workshop centering language access and established the first tenants' rights clinic in South King County - centering and servicing Spanish speaking, Latinx, and undocumented communities and a tenants' rights hotline in Spanish for the Latinx community
- Redesigned tenant rights education program's workshops and advocacy strategies to ensure accessibility for Latinx, immigrant, and refugee communities; Planned, organized, and facilitated meetings and workshops in Spanish and English
- Supervise and lead a diverse team of eight housing justice advocates and four volunteers
- Currently serves as an advisor to senators, representatives, city council members, and community stakeholders on housing rights policy development and legislation
- Key organizer and policy advisor in the passage of "Just Cause" eviction protection in the city of Burien and Washington state and successfully campaigned for the unanimous passage of housing protection policies

EDUCATION

University of Washington Henry M. Jackson School of International Studies | Seattle, WA | June 2017 *Bachelor of Arts in Latin American Studies, Minor in Human Rights*

Seattle Renters' Commission

15 Members: Pursuant to *Ordinance 125280*, all members subject to City Council confirmation, 2-year terms:

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Roster:

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6	M	7	3.	Co-Chair	Dan Godfrey	3/1/22	2/28/24	1	Council
6	F	2	4.	Member	Kate Rubin	3/1/23	2/28/25	1	Council
			5.	Member		3/1/22	2/28/24		Council
			6.	Member		3/1/23	2/28/25		Council
6	O	6	7.	Member	Char Smith	3/1/22	2/28/24	1	Mayor
			8.	Member		3/1/23	2/28/25		Mayor
6	F	3	9.	Co-Chair	Kim McGillivray	3/1/22	2/28/24	1	Mayor
			10.	Member		3/1/23	2/28/25		Mayor
			11.	Member	Sendia (Schnidine) Registin	3/1/22	2/28/24	1	Mayor
			12.	Member		3/1/23	2/28/25		Mayor
3	T	4	13.	Member	Arianna Laureano	3/1/22	2/28/24	1	Commission
			14.	Member		3/1/23	2/28/25		Commission
			15.	Get Engaged Member	Lydia Felty	9/1/22	8/31/23	1	Get Engaged Program

SELF-IDENTIFIED DIVERSITY CHART

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	Male	Female	Transgender /Non-Binary	NB/ O/ U	Asian	Black/ African American	Hispanic/ Latino	American Indian/ Alaska Native	Other	Caucasian/ Non-Hispanic	Pacific Islander	Middle Eastern	Multiracial
Mayor		1		1						2			
Council	2	2					1			2			
Other			1				1						
Total													

Key:

*D List the corresponding *Diversity Chart* number (1 through 9)

**G List gender, M= Male, F= Female, T= Transgender, NB= Non-Binary O= Other U= Unknown

RD Residential Council District number 1 through 7 or N/A

Diversity information is self-identified and is voluntary.



Legislation Text

File #: CB 120586, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

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; and amending Section 12A.09.020 of the Seattle Municipal Code.

WHEREAS, there were 589 overdose deaths in Seattle in 2022, with the majority attributed to fentanyl and methamphetamines, compared to 342 in 2021, an increase of 72 percent; and

WHEREAS, on April 17, 2023, Mayor Bruce Harrell issued his Downtown Activation Plan and Executive Order 2023-04: Addressing the Opioid and Synthetic Drug Crisis in Seattle, identifying the need to address the spike in overdose deaths and improve Downtown public safety; and

WHEREAS, drug use negatively impacts the public's sense of safety and harms and threatens neighborhoods across Seattle; and

WHEREAS, drug use is associated with drug trafficking, gun violence, and property crimes, which the City is trying to address; and

WHEREAS, the State Legislature passed 2E2SSB 5536 in the 2023 special legislative session to address drug possession and public drug use; and

WHEREAS, the State requires in RCW 39.34.180 that the City be responsible for all misdemeanors and gross misdemeanors occurring in the City; and

WHEREAS, prohibiting drug use is beneficial for public health and safety and will help combat the current drug epidemic; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.09.020 of the Seattle Municipal Code, last amended by Ordinance 126691, is amended as follows:

12A.09.020 Adoption of RCW sections

The following RCW sections as amended are adopted by reference:

* * *

43.43.754's crime of refusal to provide DNA

69.50.101 - Definitions (except that cannabis is not included in the definition of "controlled substance")

69.50.204 - Schedule I (except that cannabis is not included)

69.50.206 - Schedule II

69.50.208 - Schedule III

69.50.210 - Schedule IV

69.50.212 - Schedule V

69.50.4013(1), (2), (7), and (8) as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special

Session), Section 2

The section created by 2E2SSB 5536, Section 9

The section created by 2E2SSB 5536, Section 10

* * *

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 _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this ____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this ____ day of _____, 2023.

Anne Frantilla, Interim City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact:	CBO Contact:
Law	Ann Davison	

** 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; and amending Section 12A.09.020 of the Seattle Municipal Code.

Summary and Background of the Legislation:

The possession of dangerous drugs and the use of dangerous drugs in public places such as sidewalks, parks, and bus stops are major public safety and public health hazards for Seattle. Drug overdoses have risen exponentially for the past several years, driven principally by addiction to fentanyl and methamphetamine. The State Legislature passed a bill, 2E2SSB 5536, which creates a gross misdemeanor crime to possess controlled substances or use controlled substances in public places. 2E2SSB 5536 is effective July 1, 2023. Pursuant to RCW 39.34.180, the City is responsible for handling all gross misdemeanor crimes occurring in the City. Pursuant to RCW 69.50.608 and RCW 35.22.280(35), the penalty and disposition provisions of the City’s criminal ordinances must be the same as provided for in state law. The proposed ordinance would make possession of controlled substances and use of controlled substances in a public place a gross misdemeanor, consistent with 2E2SSB 5536.

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:	Project I.D.:	Project Location:	Start Date:	End Date:	Total Project Cost Through 2028:

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? Yes No

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

Appropriation change (\$):	General Fund \$		Other \$	
	2023	2024	2023	2024

Estimated revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2023	2024	2023	2024
Positions affected:	No. of Positions		Total FTE Change	
	2023	2024	2023	2024

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?

Yes. The legislation will increase the number of crimes filed in Municipal Court. At a certain point, the City Attorney’s Office, the Municipal Court, and the contract Public Defenders (King County Office of Public Defense) may need additional resources to process the increased number of cases.

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

Maybe. If King County prosecutes these gross misdemeanor criminal cases that occur in the City, then the City is financially responsible for the costs pursuant to RCW 39.34.180.

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

4. OTHER IMPLICATIONS

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

Yes. It affects the Municipal Court and the contracted Public Defenders.

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?

Yes. This legislation may have implications for the Race and Social Justice Initiative.

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)?**

No.

Summary Attachments (if any):

Amendment A Version 1 to CB 120586 - LAW Controlled Substance ORD

Sponsor: Councilmember Strauss

Add recitals to highlight diversion language in state law

Effect: This amendment would add to the recitals the language added to the RCW in 2E2SSB 5536 that encourages prosecutors and law enforcement to divert cases for assessment, treatment, or other services.

Amend recitals of CB 120586 as follows:

* * *

WHEREAS, the State Legislature passed 2E2SSB 5536 in the 2023 special legislative session to address drug possession and public drug use; and

WHEREAS, 2E2SSB 5536 amends RCW 69.50.4013 to state that “[t]he prosecutor is encouraged to divert such cases for assessment, treatment, or other services;” and that “[i]n lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 8 71.24.589, and the recovery navigator program established under RCW 9 71.24.115;” and

WHEREAS, the State requires in RCW 39.34.180 that the City be responsible for all misdemeanors and gross misdemeanors occurring in the City; and

* * *

June 1, 2023

MEMORANDUM

To: Seattle City Council
From: Asha Venkataraman, Analyst, Greg Doss, Community Safety & Health Team Lead
Subject: CB 120586: Knowing possession or use in a public place of unprescribed or illegal controlled substances

On June 6, 2023, the City Council will discuss and possibly vote on [Council Bill \(CB\) 120586](#), co-sponsored by Councilmembers Nelson and Pedersen, which would adopt by reference portions of a newly passed state law to make a gross misdemeanor the knowing possession or use in a public place of unprescribed or illegal controlled substances. State law also (1) establishes for first or second convictions a penalty that is lower than the maximum statutory penalty; and (2) encourages diversion and treatment for charged individuals. Incorporation of the state law would allow the City Attorney's Office (CAO) to prosecute these cases. This memo provides background, a description of the bill, issues for the Council's consideration, and potential options.

The sponsors' intent in introducing this legislation is to empower the Seattle City Attorney to work with the Seattle Police Department (SPD) to interrupt the upstream supply of highly addictive and deadly drugs coming into our community; curb the street sales and use of these drugs; and increase on-demand treatment options - these three critical activities allowing the city to address public safety, disorder and health risks associated with public drug use.

Background

Until February 2021, Washington State criminalized as a felony the possession of an unprescribed or illegal controlled substance. Because felonies are not within the jurisdiction of CAO, the City was not involved in prosecution or adjudication of possession crimes. Public use of a controlled substance was not a crime at the felony or misdemeanor levels, but as possession encompasses use, could be prosecuted as a subset of a felony possession charge.

The Washington Supreme Court ruled the felony possession law unconstitutional in [State v. Blake](#), 197 Wash.2d 170 (2021), on the grounds that it criminalized "unknowing" possession, which exceeded the State's police power and violated the due process clauses of the state and federal constitution. As a result, crimes under this statute could no longer be prosecuted. In response, in May 2021, the Washington State Legislature passed [Engrossed Senate Bill \(ESB\) 5476](#). Among other things, ESB 5476 made knowing possession of controlled substances without a proper prescription or as allowed by law a simple misdemeanor; required that law enforcement refer to assessment and treatment for an individual's first two arrests; and encouraged prosecutors to divert cases. The City did not adopt this temporary measure into its code, leaving the King County Prosecuting Attorney's Office (KCPAO) to prosecute these simple misdemeanors Countywide.

ESB 5476 will expire on July 1, 2023. The state legislature did not pass a replacement bill before the end of the 2023 legislative session on April 23, 2023. During the May 2023 special legislative session, the Legislature passed and the Governor signed the second engrossed second substitute [Senate bill 5536](#) (2E2SSB 5536), effective July 1, 2023.

State law mandates the criminal justice responsibilities of counties, cities, and towns. [RCW 39.34.180](#) says that “Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offense committed by adults in their respective jurisdictions” and that each county, city, and town must carry out the responsibilities through their own courts and staff or by entering into contract or interlocal agreement.

State Legislation: 2E2SSB 5536

Among other things,¹ 2E2SSB 5536 amends the felony possession law in [RCW 69.50.4013](#) to make knowing possession or use in a public place of unprescribed or illegal controlled substances a gross misdemeanor. 2E2SSB 5536 also provides that no individual can be charged for both possession and use relating to the same conduct. The bill also adds definitions of “public place” and “use a controlled substance.”

For a first or second offense, the maximum penalty is imprisonment for up to 180 days or a maximum fine of \$1,000, or both. However, if an individual has two or more prior convictions for knowing possession or use after July 1, 2023, the maximum penalty can increase to 364 days, and can be combined with a maximum fine of \$1,000.

Law enforcement officers are encouraged to offer referrals to assessment and services instead of jail booking and referral to prosecutors. These services may include arrest and jail alternative programs, law enforcement assisted diversion programs, or the recovery navigator program. Prosecutors are encouraged to divert cases for assessment, treatment, or services.

2E2SSB 5536 creates two new sections of RCW 69.50. The first describes pre-trial diversion and the second states that in sentencing, the court is encouraged to use resolution of the charges or supervision that “suit the circumstances of the defendant’s situation and advance stabilization, recovery, crime reduction, and justice.” Please see Attachment A for a longer description of the pretrial diversion section.

¹ CB 120586 only incorporates some, but not all, sections of the state bill, which are the focus of this memo. A description of all the provisions of the state bill can be found in a [final bill report](#), and differences from previous versions can be found in a [side-by-side comparison](#).

CB 120586

This legislation would adopt the provisions described in the previous section (RCW 69.50.4013(1), (2), (7), and (8) and the new RCW 69.50 sections created in 2E2SSB 5536, sections 9 and 10) in the Seattle Municipal Code by reference. In addition, it would also adopt the following existing state law sections:

- RCW 69.50.101: definitions section (except cannabis is not included as part of “controlled substances”); and
- RCW 69.50.204, .206, .208, .210, .212: controlled substances included in Schedules I-V (except cannabis is not included in Schedule I).²

CB 120586 does not adopt the remaining provisions in 2ESB 5536 into the Seattle Municipal Code.³

Analysis

In passing 2E2SSB 5536, the State Legislature adopted a policy to criminalize knowing possession or use in a public place of unprescribed or illegal controlled substances as a gross misdemeanor. The Council does not have the legislative authority to prescribe different penalties from what the State Legislature has decided, nor can it compel the City Attorney or Chief of Police to use diversion. The decision in front of the Council is limited to whether to adopt the RCW provision into the Seattle Municipal Code to give CAO the authority to prosecute. The following sections compare enforcement as between KCPAO and CAO.

Prosecution

Passing CB 120586 will be the first time the City has had the choice to criminalize knowing possession or use of illegal or controlled substances at the municipal level.⁴ For the City to prosecute these cases represents a shift in how it approaches drug use and possession, as it is both a shift for drug possession to be criminalized at the misdemeanor level (post-*Blake*) and for the City to become involved in drug possession prosecutions.

If the City does not pass CB 120586 to include the provisions of 2E2SSB 5536 in the Seattle Municipal Code or does not pass the bill to be effective by July 1, 2023, SPD will still have the authority to arrest, but CAO will not have authority to prosecute cases.⁵ In this circumstance KCPAO would have the jurisdiction to prosecute gross misdemeanors that occur inside city limits. As previously mentioned, KCPAO currently has the jurisdiction to prosecute simple misdemeanors under ESB 5476.

² Please see Attachment B for a description of the schedules.

³ Sponsoring Councilmembers Pedersen and Nelson indicate that CB 120586 as proposed would incorporate only select provisions because some of the other provisions are felonies, over which the City has no jurisdiction; it is work that SPD and CAO are not focused upon; and some are provisions related to cannabis possession, which is outside of the intended focus on harmful illegal drugs such as fentanyl and methamphetamines.

⁴ While the City previously criminalized drug traffic loitering, there were so few cases prosecuted that the City repealed the law in 2020 in Ordinance 126098.

⁵ The Seattle Municipal Court would have the jurisdiction to handle these cases regardless of the filing authority. While KCPAO could file RCW cases in Seattle Municipal Court, this is not a current practice.

There is no definite way to determine how many cases either prosecutorial authority would charge, and specifically, how many cases KCPAO would charge as compared to the CAO. However, due in part to low referral counts,⁶ King County's recent focus has been on drug distribution cases rather than simple possession cases—for example, during the effective period of ESB 5476, King County indicated that KCPAO charged only two cases of simple possession Countywide, both associated with felonies.⁷ In addition, due to King County's capacity, caseloads, and focus on felony level cases,⁸ the preference of current King County Prosecutor is that the City take responsibility for prosecution of gross misdemeanor possession and use cases in Seattle. The King County Prosecutor has indicated that:

“It does not make sense to have Seattle’s misdemeanor work split between the Seattle City Attorney’s Office and PAO. This approach would be cumbersome, impractical, and cause significant confusion.” Additionally, that *“The PAO does not have the staff or resources necessary to take on a new body of misdemeanor and gross misdemeanor cases.”* And *“if the PAO chose to dedicate new resources to take on a new body of misdemeanor and gross misdemeanor cases, hiring and onboarding is a lengthy process. The City Attorney’s Office is better equipped to handle these cases immediately with available and offered resources if the Seattle City Council approves the necessary ordinance.”*

CAO has indicated that it has not yet developed any policies under which it would decline to file charges (e.g., threshold amounts), only that it would not file charges for trace amounts of drugs. The City Attorney has indicated that the City should prosecute both dealers and users.⁹ Given these indications, it may be reasonable to conclude that CAO would prosecute more cases than KCPAO, should the latter be charged with that authority. But CAO has not explicitly stated how they would act upon the authority to charge knowing possession or use of illegal or controlled substances. CAO has not provided clarity regarding: (1) volume of cases they anticipate pursuing; (2) the resources they would need to expend in pursuit of these cases; (3) the diversion opportunities they would make available to those charged; nor (4) which communities would be impacted by or the focus of the CAO.

⁶ The Seattle Police Department (SPD) and other law enforcement agencies have indicated that tracking the number of drug arrests proved impractical and that enforcement of the temporary law was difficult. This may have affected how many cases were referred for prosecution.

⁷ KCPAO provided the following breakout of referrals containing one or more misdemeanor possession counts: 21 (2021), 61, (2022) 9, (2023). KCPAO staff indicated that the cases were potentially miscoded by officers and were actually filed as fentanyl possession with intent to deliver. Two cases were filed under the misdemeanor possession law, each of which was also tied to a felony case.

⁸ The King County Prosecuting Attorney's Office indicates that “prosecutes drug dealers because this behavior is illegal and causes great harm to individuals and to communities. We file more than 30 charges, on average, each month, and nearly 70% of those cases involve fentanyl or methamphetamine. While filing these types of cases provides necessary accountability to those who prey upon addicts and other vulnerable individuals, it does not provide necessary treatment to those who need it, nor does it fully address the needs of our communities.”

⁹ See Sarah Grace Taylor, “Seattle city attorney wants to prosecute drug cases after state law passes,” Seattle Times (May 19, 2023), available at <https://www.seattletimes.com/seattle-news/politics/seattle-city-attorney-wants-to-prosecute-drug-cases-after-state-law-passes/>.

Law Enforcement

Seattle Municipal Court indicates that case filings are increasing back to pre-pandemic levels. Its preliminary estimate of referrals from SPD under the new state legislation is between 700 and 870, based on historical filings before the COVID-19 pandemic.¹⁰ It is unclear whether referrals will increase or decrease from the estimated range, though there are several factors that may have an effect.

First, the number of referrals may differ based on the number of officers, of which there were more in 2019 than at present. Second, while law enforcement may find enforcement easier than it was under ESB 5476, arrests can also depend on the filing priorities of the prosecutor, both jurisdictionally and as relates to the official elected to office. Third, SPD has indicated that it believes arresting individuals on these charges provides a meaningful opportunity to divert rather than default to jail.

If SPD diverts arrested individuals rather than referring cases for prosecution, it would affect how many cases a prosecutor could consider for charging. However, given that 2E2SSB 5536 states that officers are “encouraged to offer referrals to assessment and services instead of jail booking and referral to prosecutors” but does not require it, how many cases would be diverted is unclear. Arrest or diversion would be within the discretion of each officer. The availability of programs for officers to refer to is also unclear. In the short-term, while King County jail is under booking restrictions, officers may be more inclined to divert or cite without arrest. If booking restrictions are lifted, it is possible that more arrests will be referred for charging. All of these factors could affect how many more or fewer arrests will result in referral for prosecution.

Diversion

The new state law (2E2SSB 5536) encourages: (1) prosecutors to divert encompassed cases for assessment, treatment, or other services; and (2) police, in lieu of jail booking and referral to the prosecutor, to offer a referral to assessment and services provided in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs, law enforcement assisted diversion programs and recovery navigator programs.

If CB 120586 passes, and the City prosecutes these cases, Seattle Municipal Court will hear the cases. Given that the City has not prosecuted drug cases before, it may need to develop further infrastructure for both prosecution and diversion. For example, the City does not currently have a drug court like King County does, so it may need to develop such a court, or other therapeutic

¹⁰ The state’s judicial impact fiscal note estimates that enforcing sections of the state bill would mean an increase of in caseload of 12,000 cases statewide. Given that Seattle has about ten percent of the State’s population, a rough calculation indicates that if Seattle were adopting all provisions of 2E2SSB 5536, it would increase caseload by a maximum of 1,200 cases. Because CB 120586 only adopts some portions of the state bill, a proportional decrease might indicate a caseload closer to Seattle Municipal Court’s referral estimates.

courts. The city does, however, maintain a longstanding relationship with the LEAD program (Let Everyone Advance with Dignity), which helps to coordinate legal system involvement to maximize LEAD participants and community health and safety. This program could be brought to scale to meet the increased demand associated with any increased referrals.

While King County has preexisting infrastructure to handle drug cases and diversion as well as responsibility for behavioral health programs, the City does not receive commensurate levels of funding such as MIDD or levy funds, and County programs are not required to accept referrals from the City. Additionally, KCPAO already works closely with the Department of Community and Health Services for diversion programs. Building out the needed infrastructure to be able to address root causes of these issues and get individuals into treatment and services may require time and resources.

Finally, the preclusion from Community Court for those who are prosecuted; CAO's withdrawal from Community Court as of May 26, 2023; will have impacts on those who would have received specialized treatment in lieu of traditional legal system involvement.

Fiscal Responsibility and Impact

The number of cases charged would be the primary driver of costs, and the decision whether to charge a case lies within the discretion of the prosecuting authority. The more cases charged, the more costs are likely to increase. CB 120586's summary and fiscal note states that "[t]he legislation will increase the number of crimes filed in Municipal Court. At a certain point, the City Attorney's Office, the Municipal Court, and the contract [sic] Public Defenders (King County Office of Public Defense) may need additional resources to process the increased number of cases." If the County were prosecuting, KCPAO and the King County District Court would be the parties needing additional resources, funded by the City.

The state's judicial impact [fiscal note](#) for 2E2SSB 5536 states that "impact to the courts is difficult to accurately estimate. This judicial impact note makes a best estimate of the number of cases that would shift from superior courts to courts of limited jurisdiction based upon superior court caseload data." In creating an estimate, the fiscal note accounts for four types of additional impact to courts: cost of additional cases, cost of additional pretrial diversion hearings per case, cost of pretrial diversion programs, and cost of post sentencing compliance hearing. It states that "cases are expected to take more court time because additional hearings would be needed in each case."

If CB 120586 does not pass, or for whatever period after July 1, 2023, in which CAO does not have jurisdiction, King County would have the authority to charge these cases. [RCW 39.34.180](#) makes cities fiscally responsible for prosecution, adjudication, sentencing, and incarceration of

misdemeanor and gross misdemeanor offenses.¹¹ In practice, CAO indicates that KCPAO currently handles a small number of cases that the City would otherwise be responsible for prosecuting, for example, when CAO is conflicted out of representation or for certain RCW crimes not adopted into the Seattle Municipal Code (hazing cases under RCW 28B.10.901 and unauthorized receipt of telephone records under RCW 9.26A.140(1)(d)).

If the City does not give the CAO and Municipal court the authority to prosecute and adjudicate these cases, the City remains fiscally responsible and King County could compel the City to take responsibility for the cost of those cases in some way, including, but not limited to, a new interlocal agreement, direct fiscal reimbursement, or adjustment of other contracts the City and County hold in many other areas of partnership.

King County has indicated it does not have sufficient resources to take on a large volume of cases in District Court on behalf of the City. The City and County have never entered an interlocal for the purposes of prosecution of misdemeanors or gross misdemeanors before and it is not clear that the County would agree to one for this purpose. It may take a significant amount of time to negotiate and agree on an interlocal agreement, for King County to receive additional resources, hire appropriate personnel and build out infrastructure for these cases, and figure out how to align the practice of splitting out charges between the City and County.

Lastly, if arrests substantially affect average daily population (ADP), once booking restrictions are lifted, there could be a potential increase to the amount of the City's jail contract with King County.

Racial Equity Impacts

The fiscal note for CB 120586 states that “[t]his legislation may have implications for the Race and Social Justice Initiative” but does not provide any further analysis or indicate that a racial equity toolkit or other racial equity analysis was conducted on this policy shift. CAO indicated that no racial equity toolkit or other analysis had been completed. It is well established that the criminal legal system disproportionately impacts communities of color, especially Black and Indigenous communities. In general, the state’s decision to increase criminalization of the knowing possession or use in a public place of unprescribed or illegal controlled substances from a simple to a gross misdemeanor will have disproportionate impacts on those communities. As related to enforcement, the more cases that are prosecuted by either the City or County prosecutors, the more likely it is that communities of color will experience disproportionate impacts. Given the shortage of substance use treatment and services, even if parties in the criminal legal system wanted to divert cases, there may not be anywhere to divert.

¹¹ See *City of Auburn v. Gauntt*, 174 Wn.2d 321 (2012) (holding that “[r]ead in context, the word ‘responsible’ in RCW 39.34.180(1) refers only to the fiscal responsibility for the prosecution of misdemeanor offenses in respective jurisdictions. It does not confer executive authority on municipalities to prosecute violations of state law.”

In addition, the Vera Institute of Justice has found “substantial evidence shows that incarceration is associated with an increased risk of overdose death due to a loss of tolerance to opioids, limited access to harm reduction and treatment services, and disruptions in health care and social support during and after periods of incarceration.”¹² It is Black and Indigenous communities, as well as other communities of color who suffer disproportionately from the harms of the criminal legal system and lack of access to health care, and Black and Latinx individuals who are disproportionately represented in jails and prisons, leaving these populations subject to the harms of criminalizing drug use and possession.¹³

Attachments

- A. Pre-trial Diversion
- B. Drug Schedules

cc: Esther Handy, Director
Aly Pennucci, Deputy Director
Greg Doss, Lead Analyst

¹² Taylor, A., Miller, C., Tan de Bibiana, J., Beck, Jackson, *Overdose Deaths and Jail Incarceration*, available at <https://www.vera.org/publications/overdose-deaths-and-jail-incarceration/national-trends-and-racial-disparities>.

¹³ *Id.*

Attachment A: Section 9 of 2E2SSB 5536 – Pretrial Diversion

If the prosecuting attorney consents, a defendant can try to resolve their charges through therapeutic courts or other alternatives to prosecution. The defendant, prosecutor, or court may resolve these charges through alternative resolution or supervision that “suit the circumstances of the defendant's situation and advance stabilization, recovery, crime reduction, and justice.”

For jurisdictions with arrest and jail alternative programs, law enforcement assisted diversion programs, or the recovery navigator program, a defendant can make a motion to participate in pretrial diversion and waive their right to a speedy trial. The court’s ability to grant the motion is contingent on the prosecutor’s agreement to diversion, which the bill strongly encourages, and is described as follows:

- The court must grant the motion, continue the hearing, and refer the defendant to pre-trial diversion if the defendant is only charged with a violation of specific enumerated crimes,¹ and has not been convicted of any other offenses after the effective date of the bill; or
- The court may grant the motion, continue the hearing, and refer the defendant to pre-trial diversion if the defendant does not meet the circumstances described in the first bullet.

The prosecutor may also divert additional charges related to substance use disorder for nonfelony offenses that are not crimes against persons.

Before granting a motion for pre-trial diversion, the court must inform the defendant and their counsel about the following:

- All procedures associated with pre-trial diversion;
- Roles and authority of probation, the prosecutor, the court, and the diversion programs;
- The court can grant pre-trial diversion related to the specific enumerated offenses if the defendant pleads not guilty, waives the right to a speedy trial, and upon completion of diversion, and motion of the defendant, prosecuting attorney, court, or probation department, the court must dismiss the charges;
- If the defendant has not made substantial progress with treatment or services provided that are appropriate to the defendant's circumstances or, if applicable, community service, the prosecuting attorney may make a motion to terminate pretrial diversion and schedule further proceedings;

¹ RCW 69.50.4011(1)(b) or (c) (knowing use in a public place of counterfeit substances or knowing possession of counterfeit substances), 69.50.4013 (knowing use in a public place of controlled substances without a proper prescription or knowing possession of controlled substances without a proper prescription), 69.50.4014 (knowing possession of 40 grams or less of cannabis), or 69.41.030(2) (b) or (c) (knowing use in a public place or knowing possession of a legend drug without proper medical authorization). Seattle would only prosecute crimes pursuant to RCW 69.50.4013(1), (2), (7), and (8).

- Criminal record retention and disposition resulting from participation in pretrial diversion and the defendant's rights relative to answering questions about his or her arrest and pretrial diversion following successful completion; and
- Under federal law it is unlawful for any person who is an unlawful user of or addicted to any controlled substance to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition, or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

If the court does grant the motion for pretrial diversion, the appropriate diversion program must provide the court with written confirmation of completion of the assessment and whether the defendant will be enrolled or not. Those statements would be sealed by the court, with copied only to the prosecutor, the defendant, and the defendant's counsel, and exempt from disclosure.

Subject to funding availability, pretrial diversion should be at no cost for indigent defendants. If the assessment includes a referral to treatment or services, the service provider must provide the court with regular written status updates on the defendant's progress, at least monthly, on a schedule acceptable to the court. Updates would be sealed by the court, with copies only to the prosecutor, the defendant, and the defendant's counsel, and exempt from disclosure. If the assessment does not include a referral to treatment or services, the defendant must instead complete an amount of community service as determined by the court, maximum 120 hours, to complete pretrial diversion.

Admissions made by defendants in pretrial diversion programs may not be used against them by the prosecution.

Participation in pretrial diversion does not constitute a conviction, stipulation of facts, or admission of guilt for any purpose.

If it appears to the prosecutor from the written status update that the defendant's is not substantially complying with recommended treatment or services, the prosecutor may make a motion to terminate pretrial diversion. In that case, after notice to the defendant, the court must hold a hearing to decide whether to terminate pretrial diversion. Before the hearing, the defendant and defendant's counsel must be advised about the nature of alleged non-compliance and provided discovery for evidence supporting the allegation. At the hearing, the court must consider:

- The nature of the alleged noncompliance; and
- Any mitigating circumstances such as defendant's efforts and due diligence, the availability of services in the area, and the treatment and services offered to the defendant.

If the court finds substantial noncompliance with recommended treatment or services and terminates pretrial diversion, it must state the reasons in the record and provide the prosecutor, the defendant, and defendant’s counsel with a written order.

If the defendant does complete pretrial diversion, the charges must be dismissed. If the assessment recommended treatment or services, completion could include having either 12 months of substantial compliance with progress towards recovery goals as reflected by the written status updates, or successful completion of the recommended treatment or services, whichever occurs first. If the assessment did not include recommended treatment or services, successful completion of community service and submitting proof to the court also qualifies as completion.

Beginning January 1, 2025, diversion programs must submit information about whether pretrial diversion resulted in completion or termination; demographic information about defendants; and other information as deemed appropriate by a health care authority.

Attachment B: Drug schedules

	Potential for abuse?	Currently accepted medical use in treatment in US?	What abuse can lead to	Examples
Schedule I	High	None. And lack accepted safety for use in treatment under medical supervision.	NA	<ul style="list-style-type: none"> • Heroin • LSD • Mescaline
Schedule II	High	Yes, or currently accepted medical use with severe restrictions	Severe psychological or physical dependence	<ul style="list-style-type: none"> • Codeine • Cocaine • Methamphetamine
Schedule III	Less than I and II	Yes	Moderate or low physical dependence or high psychological dependence	<ul style="list-style-type: none"> • Ketamine • Specific dosages of narcotics
Schedule IV	Low, relative to III	Yes	Limited physical dependence or psychological dependence relative to the substances included in Schedule III	<ul style="list-style-type: none"> • Alprazolam (brand name Xanax) • Clonazepam (brand name Klonopin)
Schedule V	Low, relative to IV	Yes	Limited physical dependence or psychological dependence relative to the substances included in Schedule IV	<ul style="list-style-type: none"> • Specific dosages of narcotics