

Summary and Fiscal Note

1. Legislation Summary

Department: Legislative / City Council

Title: An ordinance relating to controlled substances; updating City policy for the enforcement of the crimes of knowing possession and use of controlled substances, amending Section 3.28.141 of the Seattle Municipal Code; and repealing Section 4 of Ordinance 126896.

Background: In May 2023, the Washington State Legislature passed 2E2SSB 5536, which reclassified the knowing possession or use of a controlled substance, as gross misdemeanors. The bill encouraged law enforcement officers to offer any individual arrested for simple possession and/or use access to assessment, treatment, or other arrest and jail alternatives, including law enforcement assisted diversion programs, in lieu of booking the individual in jail and referring the case for prosecution.

In August 2023, the City of Seattle passed Ordinance 126896, which incorporated into the Seattle Municipal Code (SMC) the state's reclassification of public use and possession crimes, and specified that diversion, treatment, and other alternatives to booking are the preferred approach when enforcing those crimes.

In April 2026, Central Staff, SPD and Purpose, Dignity Action (PDA) staff presented data at the Council's Public Safety Committee that showed that between 2024 and 2025, SPD increased arrests for drug use or possession crimes by 47 percent, and decreased its use of law enforcement assisted diversion by 30 percent. In the same period, SPD increased by 56 percent its use of Charge-By-Officer (CBO) referrals to the City Attorney's Office (CAO) for personal possession or use arrests. The use of CBO referrals can bypass jail bookings while transferring the decision to divert from the law enforcement officer to the CAO, and does not always offer arrested individuals immediate, in-field access to assessment, treatment or other services.

Bill Summary: CB 000000 would amend the City's Drug Ordinance (ORD) 126896 to establish the City's preferred approach to enforcement of drug use or possession crimes to be in-field, pre-booking diversion. The bill would require diversion to occur through a direct, in-person transfer of an individual to recovery service providers, who use the City's law enforcement assisted diversion framework. The bill would require SPD to adopt policies that reflect the City's preferred approach to enforcement. Finally, the bill would require that any diversion strategies in which SPD participates must be structured to ensure that data on referrals, participation, outcomes, and participant demographics are collected and maintained, and be readily accessible to City departments, including SPD, the Office of the Inspector General for Public Safety, the City Auditor and the Mayor's Office. The bill also includes technical changes to some existing data collection requirements in Ord. 126896.

Summary Attachments: None

2. Capital Improvement Program (CIP)

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

3a. Appropriations

This legislation adds, changes, or deletes appropriations.

It does not.

3b. Revenues/Reimbursements

This legislation adds, changes, or deletes revenues or reimbursements.

It does not.

3c. Positions

This legislation adds, changes, or deletes positions.

It does not.

3d. Other Financial Impacts

a. Does this legislation create any other financial impacts for The City of Seattle, such as direct or indirect costs, one-time or ongoing, that aren't mentioned above? If yes, please explain these impacts.

While there are no direct, immediate costs for this legislation (e.g., appropriations or positions authorized in the bill), it is possible that the bill's requirement for field-based diversion could increase the overall number of diversions made by SPD officers.

Additional diversions would likely create staffing and administrative costs for the City's contracted service provider for law enforcement assisted diversion services, and such costs may require additional funding via the City's contract for such services. These costs cannot be determined until it is known that SPD is increasing its use of diversion services. Any costs for increased service would need to be addressed as part of the City's 2027 Proposed Budget review process.

b. If the legislation has costs that can be covered within the current budget, explain how. Does the department have extra resources in its budget to handle these costs? Or does the department need to shift resources away from other work to handle these costs?

N/A

c. What financial costs or other impacts might happen if this legislation is not implemented?

To the extent that SPD officers continue to use non-diversion alternatives to booking such as CBOs, the City Attorney's Office may be required to focus additional staff resources on its pre-trial diversion program.

It is also possible that fewer in-field diversions may result in additional arrests and/or use of the City's criminal legal system. Other alternatives to booking (arrest and release) are not evidence-based strategies that reduce reoffending such as the LEAD program.

d. How might this legislation affect other City departments besides the one that proposed it?

4. Other Impacts

a. Does this legislation require a public hearing?

☐ Yes

☒ No

b. Does this legislation require a notice to be published in The Daily Journal of Commerce and/or The Seattle Times?

☐ Yes

☒ No

c. Does this legislation affect a piece of property?

☐ Yes

☒ No

d. Race and Social Justice Initiative impacts:

1. How does this legislation affect vulnerable or historically disadvantaged communities? How did you come to this conclusion? Please consider both impacts within City government (like employees and internal programs) and in the broader community.

Consent Decree compliance audits have found that SPD officers disproportionately stop and search Black and Native American persons more than any other demographic group, even though their White counterparts were more likely to be found with a weapon.

The more drug possession and use cases that are prosecuted, the more likely it is that communities of color will experience disproportionate impacts. 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.”

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 Latino individuals who are disproportionately represented

in jails and prisons, leaving these populations subject to the harms of criminalized drug use and possession.

If SPD officers increase the use of in-field diversion to connect as many people as possible to treatment and support programs that are fully funded, staffed and scaled to capacity appropriate to this population, and does so in a way that decreases involvement with the criminal legal system, the City could address knowing drug possession and public use in a way that produces fewer negative racial equity outcomes. Tracking the appropriate data will be important to understanding racial disparities that remain or are created through these systems.

2. Please attach any Racial Equity Toolkits or other racial equity analyses used to develop or assess this legislation.

A Racial Equity Toolkit was not completed for this legislation.

3. What is the Language Access Plan for communicating with the public about this legislation?

e. Climate change impacts:

1. Emissions: Will this legislation significantly increase or decrease carbon emissions? Attach any studies or materials that inform your answer.

Not applicable.

2. Resiliency: Will this legislation make Seattle more or less able to adapt to climate change? If it reduces resiliency, explain what can be done to lessen the impact.

Not applicable.

f. If this legislation creates a new program or expands an existing one, what are the long-term, measurable goals? How will this legislation help achieve those goals? What methods will be used to track progress?

See 3d above.

g. Does this legislation create a non-utility CIP that involves shared funding with a non-City partner or organization?

It does not.