

Amendment 2 to CB 120645 – Adding the crimes of knowing possession of a controlled substance and use of a controlled substance in a public place.

Sponsor: Councilmember Mosqueda

Defining “Threat of harm to others” for use in Seattle Police Department (SPD) policies that implement drug use and possession laws adopted under CB 120645.

Effect: This amendment would require that SPD policies define the threat of harm as follows:

“Comprised of factors related to a potential that physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm, or which places another person or persons in reasonable fear of sustaining such harm.

Additionally, such factors may not include the mere use of drugs in public absent other identifiable factors.”

This amendment assumes that if the identified factors rise to a level that would constitute “Likelihood of Serious harm” as defined by in RCW 71.05.020, then the officer would take the individual into custody for a behavioral health evaluation.

Background:

While there is no “Threat of Harm Standard” defined in the RCW, law enforcement officers are at times required to assess a threat of harm when taking certain civil actions. For instance, an officer may refer a person for an involuntary behavioral health evaluation under SPD policy 16.110-Pro-1, which empowers officers to take into custody, and deliver to a treatment facility a person who is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled. RCW 71.05.020 defines the “Likelihood of serious harm” as:

*a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) **physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm;** or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or (b) The person has threatened the physical safety of another and has a history of one or more violent acts;...*

1. On page 8, add the following to the “Threat of Harm” standard:

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When defined in SPD policies, the threat of harm standard shall be comprised of factors related to a potential that physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm, or which places another person or persons in reasonable fear of sustaining such harm.

Additionally, such factors may not include the mere use of drugs in public absent other identifiable factors.