



Washington Association of
**SHERIFFS &
POLICE CHIEFS**

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Greetings from your Executive Director:

This week's newsletter will focus on the Blake non-fix. The possession of all drugs, including fentanyl and heroin, will no longer have any state prohibition as of July 1, unless the Governor calls the legislature back into a special session, which is apparently dependent on whether he feels they "have the votes" to pass a bill. WASPC opposed the final version of the Blake bill. I have previously sent out the clearly defined and comprehensive rationale for that position, which was shared by many others, including the Washington Association of Prosecuting Attorneys (WAPA). No bill was preferable to the bill being considered.

Many of your counties and cities are preparing local ordinances in case the state does not pass a bill prior to July 1. This newsletter offers some information on concepts, and drafts of ordinances as a possible resource if a local ordinance is necessary.

First, here is some coverage of the issue itself, and these columns and editorials lay out the issues well. The Seattle Times' Danny Westneat wrote two columns worth reading; the [first](#) explaining why the "fix" was necessary, and the [second](#) very clearly defining how Oregon has already gone down this track, to their great regret. The [Tri-Cities Herald](#) opined that legislators must return and come up with an effective plan, the [Yakima Herald](#) published this story in which local elected officials expressed "very little faith" in the state on this issue, and the Everett Herald published [an editorial](#) from county council members from both sides of the aisle saying they would come together to move forward locally if the state continues to do nothing.

The Seattle Times also published this [article](#) on how the drug possession and use issue affects the community of Marysville.

We will continue, as we have for many months including prior to the session, to engage legislators and stakeholders to find an effective solution. Finally, as you may be examining local ordinances to see if they become necessary in the absence of a state law, I am attaching three draft ordinances (with permission) for your information.

#1- [City of Kent](#)

#2- City of Marysville [Doc 1](#) & [Doc 2](#)

#3- [City of Spokane](#)

The Kent City Attorney, Tammy White, attached these comments to help explain their draft approach:

Serving the Law Enforcement Community and the Citizens of Washington

In our opinion, this proposal strikes a balance between access to treatment, and accountability for those who refuse treatment. In quick summary, the ordinance:

- 1. Keeps possession and public use as separate crimes, which in our opinion increases the likelihood that law enforcement will be able to successfully use the provisions to develop a viable case for prosecutors to file. Once a case can be filed with the court, the city is in a much better position to help direct and connect individuals to treatment.
 - a. Makes knowing possession of drugs a gross misdemeanor;*
 - b. Keeps it a crime in Kent to use drugs in public, but increases the penalty to a gross misdemeanor (our current Kent City Code provision assesses the penalty as a misdemeanor);**
- 2. Makes knowing possession of drug paraphernalia a misdemeanor;*
- 3. Keeps it a crime in Kent to knowingly deposit or throw drugs or drug paraphernalia on the ground or into any body of water, punishable as a misdemeanor;*
- 4. Moves the crime of a minor in knowing possession of alcohol into this chapter, so these individuals have access to the same treatment and resolution options available to those who possess drugs;*
- 5. Creates a local 2-year deferred prosecution program, as an alternative to the 5-year state deferred prosecution program provided for in Ch. 10.05 RCW, for charges associated with violations of the ordinance. While this alternative deferred prosecution program allows other charges to be consolidated upon agreement of the parties, it specifically excludes Title 46 RCW offenses, domestic violence offenses, and Ch. 9A.46 RCW offenses, for which petitions for deferred prosecution may only proceed under the procedures provided for by RCW 10.05. This alternative program also gives the court more discretion to keep the individual under deferred prosecution and does not require revocation if the individual violates its terms. There is no limit to the number of times an individual may pursue a deferred prosecution under the ordinance's 2-year alternative program.*
- 6. If the 2-year deferred prosecution program is revoked, the ordinance provides that the city will not object to the court entering a deferred sentence, which gives an individual yet another opportunity to have the charge dismissed if they complete treatment during the term of the deferred sentence.*
- 7. Finally, if the deferred sentence is revoked, the ordinance also provides that the city will not object to the court later vacating the individual's conviction if they successfully complete court-approved treatment and they file proof of completion with the court.*

If our council were to adopt this ordinance, they will also consider whether to amend our city's budget to leverage money recovered from the opioid class action lawsuits to assist with treatment costs for individuals who are indigent. We're also remaining hopeful that the legislature will provide funding to cities and courts for treatment purposes as well.

Tammy White, Kent City Attorney

Finally, we have posted a [new podcast](#) this week, featuring Brian Johnston from Behind the Badge.

As always let me know if you have feedback, and thanks for your continued work! Stay safe- Steve