



Washington Association of
**SHERIFFS &
POLICE CHIEFS**

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Friday, April 7, 2023

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Steven D. Strachan
Executive Director

House of Representatives

P.O. Box 40500
Olympia, WA 98504-0500

RE: ESSB 5536 – Concerning controlled substances, treatment, and accountability.

Honorable Members of the House,

On behalf of the Washington Association of Sheriffs and Police Chiefs (WASPC), I am writing to express our concern with the status of ESSB 5536, otherwise known as the “Blake bill.” We respectfully request that the House pass the bill as it passed the Senate. The House proposed amendments to SB 5536 do not provide the balanced and effective change Washington needs.

WASPC agrees that compassion and treatment should be front and center to a legislative response. WASPC agrees that the goal is to help people who need help by making resources available, accessible, and affordable. The Senate version of the bill is not only rooted in a compassionate response, it will also provide the necessary incentives.

As the bill passed the Senate, the language focused on incentives for treatment by leveraging a moderate and meaningful criminal justice response where a person refused or abandoned treatment. We believe such a balance recognizes the need for a highly structured process to empower public safety professionals (including officers, prosecutors, court personnel, and others) to intervene, guide persons suffering from substance use disorders (SUDs) through the treatment process, and to avoid criminal consequences. We maintain our position that helping people is the priority.

The House version significantly waters down or otherwise eliminates all the provisions which built a necessary, highly structured process in responding to persons suffering from SUDs. WASPC is concerned that ideological concerns

have taken priority over ensuring that the policy – through the actual bill language and how it will actually be applied in real life – can do what it was intended to do.

We do not support classification as a simple misdemeanor in the House version. Reducing consequences to a misdemeanor, removing accountability and treatment obligations, and pre-empting local responses to paraphernalia and public use will result in the opposite of what all stakeholders agree is our goal. We believe the House version will result in more people in jail, more criminal records, fewer people accessing and completing treatment, and a continuation of the chaos we are seeing in our public spaces. Most importantly, it will result in more of our neighbors and family members remaining addicted and overdosing too frequently.

The problems with a simple misdemeanor penalty include:

1. Statute of Limitations: A simple misdemeanor will go to the bottom of a prosecutor's priority list. Where a person also waives their right to speedy trial, the priority on such a case will continue to drop down. This sets up a system for anyone looking to avoid accountability by simply running out the clock on the statute of limitations (1-year) before any prosecutorial action is taken.
2. Plea Deals: Misdemeanors are eligible for a sentence of up to 90 days, however, those maximums sentences are very rarely imposed. Rather, a common result is a person doing a few days in jail. Many may view a few days in jail as less difficult than going through a verified and substantive treatment program. This imbalance – perhaps unintentionally – actually encourages jail time and a criminal record, instead of treatment.

Since the Blake decision and the stopgap law created in 2021, substance use disorder (SUD) caseloads and admissions are down significantly, and drug overdose deaths are at an all-time high. It is neither humane nor compassionate to leave those with SUD to suffer or to require our law enforcement officers to stand by and do nothing.

Importantly, the House version's primary focus on "Harm reduction" is not the most appropriate response to addiction and the need for services. While WASPC agrees with improving prevention and treatment, we reject the conclusion that "harm reduction" is the best we can do in terms of responding to addiction, substance use, and other related conduct. Out of compassion and a deeply rooted commitment to each of the Washington communities our officers and deputies serve, we cannot accept any proposal that further enables drug use – regardless of what we call it.

Failing to intervene and fundamentally change course on how drug possession and use are handled has proven to be a catastrophic error for our state and its people. With overdoses at highs and treatment at lows, Washington lawmakers cannot afford to negotiate against themselves.

In summary, the evolution of the Blake bill gives us great reason to pause and now, to raise significant concerns with its current House version.

We encourage the Legislature to return to bill language that recognizes the nuance in classifying crimes, leverages treatment options before and after conviction, upholds treatment compliance standards, reduces the number of people anticipated to serve jail time for drug possession, rewards successful completion of treatment, holds accountable those who refused treatment, allows local governments to manage their communities according to their community needs, equips prosecutors and courts with more options, and does not accept the notion that there's nothing more we can do other than help people hurt themselves.

Enacting meaningful legislation addressing the unlawful possession of controlled substances, counterfeit substances, and legend drugs (collectively referred to as 'drugs') is a must-pass priority. If legislation on this matter is not enacted, the possession of all drugs, including fentanyl, methamphetamine, and heroin, will become lawful in this state on July 1, 2023.

WASPC asks the House pass SB 5536 as it passed the Senate floor on March 3rd.

Respectfully Submitted,

A handwritten signature in black ink that reads "Steven D. Strachan". The signature is written in a cursive, flowing style.

Steven D. Strachan
Executive Director