

The City of Seattle
Ordinance 127485
Council Bill 121248

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.

Recitals:

In May 2023, the Washington State Legislature passed 2E2SSB 5536 (enacted as Chapter 1, Laws of 2023), which reclassified the knowing possession of a controlled substance, and the knowing use of a controlled substance in a public place, as gross misdemeanors.

2E2SSB 5536 encouraged law enforcement officers to offer any individual arrested for simple possession and/or use access to assessment, treatment, or other services, such as arrest and jail alternatives and law enforcement assisted diversion programs, in lieu of booking the individual in jail and referring the case for prosecution.

In August 2023, the City Council adopted Ordinance 126896, which incorporated into the Seattle Municipal Code 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.

Between 2024 and 2025, the Seattle Police Department (SPD) increased arrests for drug use and 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) to the City Attorney's Office (CAO) for personal possession and use arrests, which can bypasses jail booking, transfer to the CAO the decision to divert and may not offer arrested individuals immediate, in-field access to assessment, treatment or other services.

In a Council Public Safety Committee meeting on April 28, 2026, SPD Chief Shon Barnes and leaders from Purpose, Action, Dignity (PDA) indicated that a lack of capacity in the City's Law Enforcement Assisted Diversion (LEAD) program, and an associated gap in SPD training, may have contributed to the reduction in the use of LEAD diversion between 2024 and 2025.

The Council recognizes the evidence base for law enforcement assisted diversion programs and long-term case coordination and management services, and the inherent health risks of attempting to diagnose and determine treatment without adequate information or support for individuals post treatment.

Drug markets and public drug use have had severe negative impacts on neighborhoods and communities, including but not limited to Pioneer Square, Downtown, Little Saigon, the Central District, the University District, Aurora Ave., Ballard, Belltown West Seattle, and North Beacon Hill.

The Council aims to ensure that enforcement of public possession and use laws aligns with evidence-based practices, including immediate interventions that connect offenders with the services and resources needed to move them out of chronically disordered areas. Therefore,

Be it ordained by The City of Seattle as follows:

Section 1. Section 3.28.141 of the Seattle Municipal Code, enacted by Ordinance 126896, is amended as follows:

3.28.141 Policies governing ((arrests)) enforcement for knowing possession of a controlled substance and use of a controlled substance in a public place

A. The provisions of this Section 3.28.141 apply to enforcement of RCW 69.50.4013(1), (2), (7), and (8) as amended by 2E2SSB 5536 (68th Legislature, 2023 1st Special Session), Section 2.

B. Policy. Consistent with any public health and safety-related Mayor-issued executive orders, the Seattle Police Department (SPD) will adopt policies governing ((arrests for)) enforcement related to the crimes described in subsection 3.28.141.A. ~~((These new policies will seek to minimize use of force and incorporate de-escalation and crisis intervention that reflect existing SPD policies in those areas. SPD will train its officers on these new policies.~~

~~C. Body-worn videos. When officers interact with individuals allegedly committing the crimes described in subsection 3.28.141.A, officers shall comply with SPD policies and procedures for body-worn video cameras and/or other equipment intended to record officer interactions with the public.~~

D)) C. Probable cause for arrest. An officer must have probable cause for arrest.

~~((E.))~~ D. Arrest. Nothing in this Section 3.28.141 or in any other provisions of this legislation shall mandate an arrest to occur.

~~((F.))~~ E. Diversion. ~~((Diversion, treatment, and other alternatives to booking are))~~
Field-based, pre-booking diversion through a direct, in-person transfer of an individual
("warm handoff") to recovery service providers who utilize the City's law enforcement
diversion framework, which shall include but not be limited to the key elements identified
in RCW 71.24.589(4), is the preferred approach when enforcing the crimes adopted
under this Section 3.28.141 as described in subsection 3.28.141.A.

1. SPD policies adopted under this Section 3.28.141 will contain guidance
on field-based, pre-booking diversion processes and state that in-field diversion and
referral to services is the preferred response to crimes described in subsection
3.28.141.A. For the purposes of this subsection 3.28.141.E, a field-based, pre-booking
diversion includes a direct in person handoff that occurs at a police precinct.

~~((2. SPD policies will state that diversion and referral to services is the~~
~~preferred response to the crimes described in subsection 3.28.141.A.~~

~~3.))~~ 2. A lack of diversion ~~((opportunities))~~ capacity shall not be a reason
for arrest, jail booking, or referral for prosecution.

~~((4.))~~ 3. SPD shall collect data and report to the City Council Public Safety
and Human Services Committee or its successor that identifies the racial composition of
those:

a. Referred for recovery services on a voluntary basis without an
arrest;

b. Arrested, released, and referred for prosecution;

c. Arrested and diverted to ~~((community-based))~~ recovery services prior to jail booking or referral for prosecution; and

~~((b-))~~ d. Booked and referred for prosecution.

~~((G-))~~ E. Threat of harm to others. When considering making an arrest, releasing, or diverting an individual, pursuant to subsection 3.28.141E., officers may determine whether the individual, through their actions and conduct, presents a threat of harm to others. This determination will occur after probable cause has been established. This determination is based on the totality of the circumstances and the officer's training and experience. SPD policy will identify factors to guide officers when assessing the threat of harm presented by the individual. The threat of harm assessment governs officer decisionmaking and is not an element of the crime to be proved during the prosecution of the crimes described in subsection 3.28.141.A and cannot be used as a defense at trial.

~~((H-))~~ G. Threat of harm to self

1. If an officer determines there is probable cause to arrest and the officer's assessment indicates that the individual does not pose a threat of harm to others, the individual only poses a threat of harm to self.

2. An officer may attempt to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest. An officer may arrest or take into custody, at the officer's discretion to avoid additional harm to self, including, when appropriate, for the purpose of emergency stabilization and evaluation as authorized under RCW 71.05.153(2). Reasonableness is determined from the perspective of a reasonable officer facing similar circumstances.

3. An officer will not arrest when the individual only poses a threat of harm to self absent articulable facts and circumstances warranting such action.

4. The threat of harm assessment will govern officer decisionmaking and will not be an element of the crime to be proved during the prosecution of the crimes described in subsection 3.28.141.A and cannot be used as a defense at trial.

~~((I-))~~ H. Officer safety. Nothing in this Section 3.28.141 is intended to compromise the safety or well-being of police officers.

~~((J-))~~ I. An officer's failure to comply with this Section 3.28.141 shall not render an arrest unlawful if the arrest is otherwise supported by probable cause.

~~((K-))~~ J. Reporting requirements

1. If an officer determines, based on the totality of circumstances, that an arrest is authorized by this Section 3.28.141, an arrest report shall be completed by the officer that includes, at a minimum, the facts establishing probable cause, and, if an assessment was completed under subsection 3.28.141.F, an assessment of the threat presented by the individual, and whether, and in what manner, arrest or diversion was considered or utilized. Officers shall include in the arrest report any attempt to contact diversion service providers for a field-based diversion and indicate the amount of time officer waited for the in-person transfer of an individual. Officers shall indicate in the arrest report if they left the scene to respond to a more urgent matter, as determined by the officer, based on their assessment of the circumstances and conditions at the time, prior to the in-person transfer of the individual.

2. The Office of Inspector General for Public Safety (OIG) (and/or an independent, academically based research organization engaged by OIG) and SPD

shall work with the City Attorney's Office, Seattle Municipal Court, the Seattle Fire Department, and any other relevant departments to obtain the data described in subsections ~~((3.28.141.L.4))~~ 3.28.141.K.1 through ~~((3.28.141.L.12))~~ 3.28.141.K.12 by January 1, 2025 and annually on January 1 until 2030.

3. To the extent practicable, SPD officers shall collect and record in the department's record management system (RMS) data each contact with an individual in pursuit of enforcement of the crimes described in subsection 3.28.141.A and the number of attempts to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest as described in subsection ~~((3.28.141.F))~~ 3.28.141.E. If SPD is unable to collect the data described in this subsection ~~((3.28.141.K.3))~~ 3.28.141.J.3, SPD and OIG shall endeavor to collect such data from service providers.

4. The City shall require that recovery service organizations, with whom the City has entered into a contract to provide law enforcement diversion services, collect and maintain data on officer requests for diversion providers to facilitate a field-based diversion, the time it took for providers to respond to such requests, referrals, participation, outcomes, and client demographics, and such data are readily accessible to City departments, including SPD, OIG, the City Auditor, and the Mayor's Office.

~~((L.))~~ K. Annual reporting and recommendations. OIG and/or an independent, academically based research organization engaged by OIG shall review implementation of this Section 3.28.141 to determine the impact of subsections ~~((3.28.141.G))~~ 3.28.141.F and ~~((3.28.141.H))~~ 3.28.141.G, including but not limited to the ability of SPD officers to effectively address incidents described in subsection 3.28.141.A and, based upon that review, provide recommendations to improve this Section 3.28.141 and

related policy. OIG shall also provide recommendations regarding data collection and operationalization of such data collection to improve the City's ability to assess the effectiveness of this legislation. A preliminary report shall be provided to the Council by June 30, 2025. The following data, or an explanation of why the data is unavailable, and written recommendations shall be provided by the OIG to the Council by December 31, 2025, and at least annually by December 31 until 2030:

1. The number of drug overdoses in Seattle on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023);

2. ~~((The number of shootings in which drugs were present or an individual was under the influence of drugs within Seattle on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023)))~~ The number of incidents marked as involving controlled substances as defined by the Seattle Municipal Code and Revised Code of Washington and in which a firearm was also found;

3. The number of 911 calls about use of controlled substances in a public place on a quarterly basis (including baseline years of 2019 - 2022 and the first three quarters of 2023);

4. The number of documented contacts between police officers, including community service officers, and individuals encountered during enforcement of the crimes described in subsection 3.28.141.A;

5. The number of attempts by police officers, including community service officers, to contact and coordinate efforts for diversion, outreach, and other alternatives to arrest as described in subsection ~~((3.28.141.F))~~ 3.28.141.E;

6. The number of arrests for the crimes described in subsection

3.28.141.A;

7. The number of individuals transported for booking at jail and of that number: the name of the jail, the number of individuals who are booked into jail, the number of individuals the jail did not accept due to medical declines or for other reasons, the number of individuals transported to a medical facility, including Harborview Medical Center, the number of individuals who are released from a medical facility and then transported to jail, and the number of individuals released without booking into jail or being transported to a medical facility;

8. The number of possession and public use (~~((cases referred))~~) referrals made to the City Attorney's Office for prosecution;

9. The number of (~~((referred cases dismissed before or during trial, including pre-filing diversion cases))~~) cases that the City Attorney's Office diverts pre-file to LEAD in which possession of a controlled substance or public use of a controlled substance is the sole charge;

10. The number of cases that the City Attorney's Office declines to file, for cases in which possession of a controlled substance or public use of a controlled substance is the sole charge;

11. The number of cases that the City Attorney's Office diverts post-file to Law Enforcement Assisted Diversion in which possession of a controlled substance or public use of a controlled substance is the sole charge;

12. The number of cases that the City Attorney's Office dismisses, and the reasons for the dismissal, for cases in which possession of a controlled substance or public use of a controlled substance is the sole charge;

~~((10. The reasons for dismissal of referred cases;~~

11.)) 13. The results of any interviews of SPD personnel with experience in the field implementing this Section 3.28.141 and their suggestions, if any, for improving the law or related policies, including the feasibility of implementing subsection ~~((3.28.141.G))~~ 3.28.141.F and ~~((3.28.141.H))~~ 3.28.141.G; and

~~((12.))~~ 14. Any other information deemed by OIG as helpful for the purposes of the review required by this subsection ~~((3.28.141.L))~~ 3.28.141.K or providing written recommendations.

~~((M.))~~ L. Based on officer availability, location, and deployment limitations, SPD shall seek to prioritize use of officers who have received at least 40 hours of crisis intervention team (CIT) training when enforcing the crimes described in subsection 3.28.141.A.

Section 2. Section 4 of Ordinance 126896 is repealed:

~~((Section 4. Given that there are numerous unscaled community-based care teams in Seattle and that an effective response to complex behavioral health needs requires coordination and division of labor, this legislation establishes a behavioral health alternatives committee. This committee shall advise the Mayor, City Council, the Seattle Police Department (SPD), and other public safety-related departments on an ongoing basis regarding any need for change in operationalized police protocols, legislation, or other policies.~~

~~Committee approval shall not be required prior to implementation of SPD policies.~~

~~A. Reporting. The behavioral health alternatives committee created in this section shall produce bi-annually a report that identifies for individuals who are referred to diversion through SPD social contact, demographic and other information as recommended by the state's substance abuse and recovery services plan. Data used to produce the report shall be made available to the City for subsequent analysis to include persons who were arrested, booked, or prosecuted for the crimes described in subsection 3.28.141.A of the Seattle Municipal Code.))~~

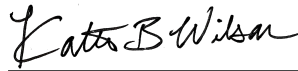
This ordinance shall take effect as provided by Seattle Municipal Code Sections
1.04.020 and 1.04.070.

Passed by the City Council and signed in open session in authentication of its
passage on August 4, 2026.



President _____ of the City Council

Approved _____ on August 6, 2026.



Katie B. Wilson, Mayor

Attested on August 6, 2026.



Scheereen Dedman, City Clerk

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