



May 28, 2021

Here is a quick update on changes as a result of the Blake decision and SB 5476.

The governor signed the bill on May 13, at which point it became immediately effective. There is a note about a veto of a section which is not substantive for enforcement of the law. Here is the link showing the bill info and showing the Governor's approval: [Washington State Legislature](#)

Alternatives to arrest must now be offered for the first two situations in which there is probable cause to arrest for simple possession. A custodial arrest and referral for prosecution can only occur if there is documentation of two prior referrals (from anywhere, not just your specific jurisdiction) for services. Here are two suggestions:

1. Document that alternatives were offered. **There is no pre-existing database to provide these records between jurisdictions, but regionally or within your area you can utilize the dispatch or RMS system, whichever works better for your purposes.** [Attached](#) is a draft sample form to provide a basis to develop a system in which a form customized to your area is attached to the report, and a copy is sent to whatever alternative is available. Expect that public defenders will want to see these documents and potentially challenge them if and when custodial arrests are made. As always, consult with your legal counsel about the form and process.
2. A guide for alternatives and processes to direct and provide those alternatives is [attached](#) - this has been developed by the LEAD National Support Bureau, and is provided in the interest of achieving the goals of the legislation. **As the guide notes, in addition to the resources listed, you can utilize or direct to whatever local resources you may have.** As the attachment notes, these are temporary resources that have been organized to fill the gap until a new statewide *Recovery Navigator* program, funded by the same legislation, comes online at some point down the road. The resources that are being offered in the meantime are coming from partners who understand you need a place to call, and will work to assist in the transition. Some of these resources may be involved in the future navigator system.
3. One of the resources listed in the guide is the WA Recovery Helpline, which is a 24/7 number always available as a backup, no matter where you are in the state. We are attaching an electronic version of a WA Recovery [helpline card](#) for your use. WASPC will be receiving 10K of these in the next few days, and will make them available to agencies. As the resource guide notes, this is the back-up 24/7 plan to use if you don't have other local resources for a more robust response available.

None of this is a perfect solution, and all of us understand that a law written in a short period of time, with far-reaching consequences, based on a sweeping court decision, is not the ideal outcome. It also increases the time and documentation required to enforce drug laws in the first place. Many partners are reaching out to assist, and to provide support for behavioral health problems as your teams work to get people into programs, consistent with the intent of the legislation. As we move forward, there will be a statewide task force building a comprehensive substance use response plan, so please provide feedback on what you are experiencing and the needs/gaps.

We will update you with any other information we have as it is received. Thanks-

Steve