

# Addressing the *Blake* decision

2023 – SB 5536



Respond to community impacts of the *State v. Blake* decision on drug possession, including advocating for more treatment for substance use disorder.

## Background:

In 2021, the Legislature passed **SB 5476** to address the impacts of the Washington Supreme Court's ruling on *State v. Blake*, which declared unconstitutional the previous law categorizing drug possession as a felony. The bill establishes misdemeanor-level criminal penalties for the possession of controlled substances, but also requires a referral step for someone's first two offenses, creating an uncertain legal scenario without a fully developed treatment system in place.

In 2022, cities received approximately **\$30 million** in investments from the state, including:

- **\$21.5 million** to offset the costs of repaying legal financial obligations and vacating criminal convictions;
- **\$4.9 million** to fund municipal therapeutic courts; and
- **\$2 million** in grants to create alternative response teams

Cities have been placed on the front lines for carrying out the new public policy created under **SB 5476**. Yet cities lack dedicated, ongoing resources to do this work on their own. Extreme disparities in access to drug treatment are found in communities across the state. Most communities don't have local options to divert people into drug treatment—or the nearest service center is often located many miles away from the community.

The Legislature must invest in statewide services to provide substance use disorder treatment for those who need it and to share the burden of building a statewide support system to address addiction and behavioral health needs. The current two-referral system has created legal uncertainty and, in some cases, impedes individuals from accessing treatment. Without a statewide tracking system, there is no way to verify the number of times an individual may have received a referral.

## Strong cities need:

- **Revisions** that would make possession of a controlled substance a gross misdemeanor, while focusing on diversion options that encourage individuals to participate in treatment programs in lieu of criminal penalties.
- **Continued funding** to help develop new therapeutic courts and offset the costs of vacating criminal convictions, repaying legal financial obligations, administering diversion programs, and mitigating municipal court impacts, including the development of new therapeutic courts.
- **Continued state funding** to help communities establish alternative response programs that provide access to treatment and options beyond law enforcement for responding to situations with individuals suffering from behavioral health issues.

## Key city facts:

- Washington cities operate **100 municipal courts**.
- There are currently **41 municipal specialized court programs** in Washington. These courts follow many different models and include community courts, veteran courts, mental and behavioral health courts, substance use disorder and drug courts, domestic violence courts, DUI courts, and youth courts.
- In 2021, the Administrative Office of the Courts (AOC) launched the Therapeutic Courts Grant, which allocated **\$4.5 million** to municipal and district courts. The AOC received **27 requests** from cities totaling over **\$10.2 million**. The need continues to outpace investments.
- Cities are investing in **alternative response models** such as co-responders, crisis responders, law enforcement assisted diversion, and other community-based outreach programs.

## Contact:

**Candice Bock**  
Government Relations Director  
candiceb@awcnet.org

**Katherine Walton**  
Legislative Policy Analyst  
katherinew@awcnet.org