

Legislative 'fix' to drug charge will shift cases to district court in Cowlitz County and around Washington

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Cowlitz County Prosecutor Ryan Jurvakainen talks with a Daily News reporter in July 2016.

Bill Wagner, The Daily News file photo

A bill passed by the Legislature this month to overhaul the state's drug possession laws will mean shifting workloads for local courts, as well as a lot of unknowns.

The changes were sparked by the Supreme Court's *State v. Blake* decision in February, which found Washington's law unconstitutional because it made drug possession a felony, even for people who did not know they had drugs on them. As the ruling effectively decriminalized drug possession in Washington, local police largely stopped arresting people for simple possession.

Systematic Ventures CEO Max Wolff tells Reuters' Fred Katayama that investors should position their portfolios defensively and buy consumer staples stocks.

Now, the Legislature has passed a new law that makes simple drug possession a misdemeanor. That means it's punishable by up to 90 days in jail, a \$1,000 fine or both, instead of the felony sentencing of up to five years in prison and a fine of up to \$10,000.

Shifting work

Cowlitz County Prosecuting Attorney Ryan Jurvakainen said the biggest change is that misdemeanors are handled by district and municipal courts, so drug possession charges that used to be felonies and handled in Superior Court will move to the other court.

"That has the potential to shift a decent amount of workload," Jurvakainen said.

Another effect of the new law is officers are asked to refer offenders to services on at least two occasions before forwarding charges to a prosecutor. Prosecutors are encouraged to divert drug cases to treatment instead of jail.

The bill also increases funding for community-based recovery programs and includes a "sunset clause," which lifts the criminal penalties in 2023. The Legislature plans to form a committee to review the state's drug laws and develop a long-term plan.

"We're trying to figure it all out with what's required for a referral," Jurvakainen said. "These are all things that everybody needs to figure out."

The new law also altered the drug paraphernalia statute and removed language relating to people using drugs, like "pack," "conceal," "inject," "ingest," and "inhale," and leaving language related to paraphernalia used to manufacture drugs.

While the Legislature also called for work groups to be formed to create a model and a longer term plan to handle drug cases, Jurvakainen said in the meantime, it will be up to local courts and law enforcement to create a functioning model.

"How that's ultimately going to affect the court systems, only time will tell," he said.

Jurvakainen said the potential effect on other crime also is "not something you can predict." Most local property crime is linked to substance abuse.

“We won’t know the effects for quite some time, until we get quantifiable data,” he said.

Drug Court

Cowlitz County has a long-standing Drug Court that is one of several local alternative courts for criminal defendants arrested for low-level crimes, such as drug possession or low-cost thefts. To be admitted to Drug Court, defendants must admit to their current charges, acknowledge they have a drug problem, and want to get help.

In 2020, only seven people were charged with possession of drug paraphernalia in the District Court. Since Blake decision on Feb. 25, there have been 13 charges.

Established in 1999, the court has “already seen a reduction” related to the Supreme Court decision, Jurvakainen said, though he did not have specific numbers.

“It’s an off-ramp from the criminal justice system,” he said. “That off-ramp just shrunk because now drug possession is no longer a Superior Court case and drug court is in Superior Court. I see that having a substantial impact.”

Case reviews

While law enforcement and courts will follow the new law moving forward, the Blake decision prompted re-evaluation of all simple possession charges that came before it, and Jurvakainen said the new law does not affect that process.

The ruling is retroactive, meaning that anyone with older simple possession charges needed to have their case reviewed and either the charges dropped or the sentences reworked, because Washington uses sentencing guidelines based on prior convictions. Prior convictions count as “offender points” and more points means a higher sentencing range.

“For time being, we are still chugging through Blake,” Jurvakainen said. “We’re still working on the resentencing, the vacation of convictions, the dismissals.”

Jurvakainen said his office is handling at least a few resentencings and vacates a few convictions each week, and “this won’t go away any time soon” because there are thousands of potential cases to work through.

“A lot it has to do with triage,” he said, focusing on cases where someone might still be in prison and looking at a reduced sentence with the chance for release in the near future over much older cases or one where the drug charge is a smaller role in the sentencing time frame.

Moving forward

Jurvakainen said overall, it will simply be an adjustment for courts and law enforcement, with more work to come as the state and local services figure out the referral process.

“How many cases will end up in District Court versus Superior Court? I don’t know,” he said. “But District Court is gearing up for the potential that they will have a healthy chunk of additional cases coming their way. It will take some time to navigate that.”