

# Here's how the new drug possession law in Washington is different than what was on the books

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Senate Majority Leader Andy Billig, D-Spokane, and Senate Law and Justice Chairwoman Manka Dhingra, D-Redmond, outline changes in the state's new drug possession law after it passed the Senate on Tuesday morning. (By Jim Camden / For The Spokesman-Review)

Changes to the state's drug possession laws, prompted by a state Supreme Court ruling, tied the Legislature in knots during its regular session.

The Senate passed a bill that the House wouldn't pass. The House passed an amended version of that bill that the Senate rejected. Negotiators on a special committee proposed a compromise that failed in the House on the final day of the session and never came up for a vote in the Senate.

After a three-week break during which members of both parties in the House and Senate negotiated changes, a special session untied the knot in a matter of hours.

Here are some key aspects of the new law, and how they changed from three previous proposals,

**Simple possession of a dangerous drug will be a gross misdemeanor** under the new law, punishable by as many as 180 days in jail for the first two arrests, and by 364 days on the third and subsequent arrests. The original Senate bill classified possession as a gross misdemeanor, although it allowed as many as 364 days in jail, standard for most gross misdemeanors in Washington. The House version changed that to a simple misdemeanor, with lighter penalties. The committee compromise returned it to a gross misdemeanor but allowed public possession and use of certain drugs, like marijuana, to be a misdemeanor

**Drug paraphernalia isn't illegal under state law, but cities and counties can enact laws that regulate it.** The original Senate bill eliminated language on drug paraphernalia and the amended House version pre-empted state regulation on paraphernalia while the compromise allowed local jurisdictions to enact their own ordinances.

**Pretrial diversion is established for persons charged with drug possession** offenses, but a court can't grant it unless the local prosecutor agrees. The original Senate version established diversion for defendants and allowed a court to grant it if a defense attorney requests. It and the amended versions specified a range of diversion programs with certain reporting requirements. The compromise version encouraged prosecutors to consent to diversion if the defendant is only charged with nonfelony offenses. The final law keeps the range of programs and reporting requirements but requires consent from the prosecutor.

**A person convicted of a drug possession charge may have that conviction overturned by completing a diversion program** and providing proof of completion, or by completing a jail alternative program and having six months of substantial compliance. The original Senate bill and the amended House bill required courts to impose specific sentences, with the Senate bill calling for a 21-day minimum if a defendant refuses treatment. The final version is the same as the committee compromise.

**The minimum of two referrals by law enforcement officers prior to arresting a person for drug possession is repealed.** All versions repealed that provision, which was a main complaint by law enforcement of the 2021 law.

**Facilities that provide opioid treatment programs, recovery services and other drug treatment programs, except for safe injection sites, are considered "essential public facilities"** and local zoning laws must treat them as other health care facilities. But the state must hold a public hearing before issuing them a license

and notify the public through “all appropriate media outlets in the community” where one is being proposed. The facilities can meet with resistance from neighbors where they are proposed. The public hearing requirement was added in the amended House version and the media notice added in the final bill.

**State agencies to collaborate on a Washington Recovery Help Line.** All versions had similar provisions.

**Remote sites can dispense medications to treat opioid addiction.** This wasn't in the original bill but was added to the amended House version and kept in later versions.