

What is the Proposal? Seattle City Attorney Ann Davison and Seattle City Councilmembers Alex Pedersen and Sara Nelson [propose adopting the legislature’s law](#) criminalizing simple drug possession (i.e. drug possession without intent to deliver) and public drug use. [They assert](#) that the city’s adoption of this law will prevent overdoses.

Background: In 2021, the Washington Supreme Court [struck down the State’s drug possession law](#), finding that it was unconstitutional not to require that a person know they possessed the drug(s) to be convicted. The legislature passed a temporary law criminalizing drug possession, but the City did not adopt it. Responsibility for prosecuting the law fell to the County, who could demand payment from the City for the cases. While we are still looking into this, it appears the County may not have prosecuted any cases and did not demand payment from the City. After the temporary law expired, the legislature passed a new law criminalizing drug possession and public drug use. The law encourages but does not require or provide funding for diversion to treatment, beyond a new property tax exemption for treatment facilities. City passage of the law would not add any new funding for treatment.

Will arresting people for drug possession reduce overdoses? No, it will likely increase overdoses. Incarceration has been found to greatly increase the risk of overdose upon release,¹ and coerced treatment [has been found to of limited effectiveness and potentially harmful](#) compared to voluntary treatment. Arrest uses the threat of the former to accomplish the latter.

What will City adoption of this law do? City adoption of this law is likely to:

1. Increase prosecutions for drug possession.²
2. Increase the jail population.³
3. Increase the number of people who are exempt from the booking restrictions.⁴
4. Increase overdoses.
5. [Increase racial disparities](#) in arrests, jail time, and overdoses.
6. Increase contacts between police and communities that have been subjected to a disproportionate share of police violence.
7. Burden people with criminal records that negatively affect their background checks and credit ratings and make it more difficult for them to obtain jobs and housing.
8. Reduce the likelihood that people struggling with drug use will speak openly with their initial contact; unlike police, outreach workers are unarmed and not implicitly threatening force or jail time.

What will happen if the City does not adopt this ordinance? The City may need to reimburse the County for any prosecutions the County initiates resulting from Seattle Police Department arrests for the state

¹ See, e.g., [this study](#) finding that people coming out of prison in Washington state were 129 times more likely to die of an overdose than the general public; or [this study](#) showing similar results in North Carolina; or [this page](#) generally.

² The County has shown little interest in prosecuting these cases, whereas the City Attorney is proposing the law and has been comparatively more aggressive about prosecuting misdemeanors.

³ While these cases would not be eligible for pretrial detention under current booking restrictions, those restrictions are not permanent and people could still be sentenced to time on these cases.

⁴ The City Attorney designates people “High Utilizers” by number of misdemeanor referrals. High Utilizers are exempt from booking restrictions. It would be easy for a person who does not have housing and who is regularly using to accumulate multiple referrals for possession or public use.

ordinance. The County may choose not to prosecute the cases and/or to use the diversion program it already has set up for possession of small amounts of drugs, and the City could deprioritize such arrests, [as it did with marijuana](#) prior to the passage of the statewide legalization initiative.