

**SGC Position on Legislative Bills  
2023 Legislative Session**

<b>Bill Proposal</b>	<b>Position</b>	<b>Brief Description of Bill Proposal</b>
<b>SHB 1024 - Concerning labor and income of incarcerated persons</b>	<b>PRO</b> SGC is in support of not requiring individuals pay for their cost of incarceration and paying them a living wage as it will help people become financially sufficient upon release. The SGC does not take any position on the details of the bill.	<ul style="list-style-type: none"> <li>- Provides that the wage or gratuity paid to an incarcerated person participating in certain Correctional Industries work programs must be no less than \$1.50 an hour.</li> <li>- Provides that the limit on amounts paid to an incarcerated person participating in Class III work programs must be no less than \$200 a month.</li> <li>- Modifies the maximum deductions that various entities may impose on an incarcerated person's income for specified purposes.</li> <li>- Requires the Department of Corrections (DOC) to submit a report related to debt incurred by incarcerated persons for the cost of items and services while incarcerated.</li> <li>- Repeals provisions authorizing the DOC to operate a Work Ethic Program</li> </ul>
<b>ESHB 1169 – Concerning legal financial obligations</b>	<b>PRO</b>	<ul style="list-style-type: none"> <li>- Eliminates the crime victim penalty assessment for juveniles and provides that a court must not impose the crime victim penalty assessment upon an adult defendant who is indigent at the time of sentencing.</li> <li>- Establishes a Crime Victim and Witness Assistance Account to support county crime victim and witness programs.</li> <li>- Eliminates the DNA database fee and establishes alternative state funding for the DNA database.</li> <li>- Requires a court, upon motion of an offender, to waive a previously imposed DNA database fee.</li> </ul>
<b>E2SHB 1189 - Concerning the release of incarcerated individuals from total confinement prior to the expiration of a sentence</b>	<b>PRO</b>	<ul style="list-style-type: none"> <li>- Expands and modifies the membership, compensation, and training requirements for the Clemency and Pardons Board (CPB).</li> <li>- Establishes a process for the CPB to consider and make recommendations on petitions for commutations.</li> <li>- Authorizes the Department of Corrections (DOC) to supervise persons who receive a recommendation for commutation from the CPB under certain circumstances.</li> <li>- Alters the eligibility criteria and modifies electronic monitoring requirements for persons granted extraordinary medical placement by DOC.</li> </ul>

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<b>SHB 1268 - Concerning sentencing enhancements</b>	<b>PRO</b>	<ul style="list-style-type: none"> <li>- Allows an incarcerated individual to earn good time credits for the portion of their sentence attributable to a sentencing enhancement and removes requirements for serving the portion of the sentence attributable to the enhancement in total confinement.</li> <li>- Allows multiple sentencing enhancements to be served concurrently, instead of consecutively.</li> <li>- Repeals the enhancement for involving a minor in a criminal street gang-related felony.</li> </ul>
<b>EHB 1324/SB 5475 - Concerning the scoring of prior juvenile offenses in sentencing range calculations</b>	<b>PRO</b>	Prohibits juvenile adjudications except for murder in the first or second degree or a class A felony sex offense from being included in a defendant's offender score for the purpose of adult felony sentencing.
<b>HB 1325/SB 5451 - Allowing qualifying persons serving long sentences committed prior to reaching 25 years of age to seek review for possible release from incarceration</b>	<b>PRO</b>	<ul style="list-style-type: none"> <li>- Requires courts to sentence individuals convicted of aggravated first degree murder where the murder was committed prior to the offender's 25th birthday a maximum term of life imprisonment and a minimum term of total confinement of 25 years.</li> <li>- Permits individuals convicted of one or more crimes committed prior to the person's 25th birthday to petition the Indeterminate Sentencing Review Board for early release after serving no less than 15 years of total confinement in certain circumstances.</li> </ul>
<b>HB 1432/SSB 5474 - Concerning juvenile justice</b>	<b>PRO</b>	<ul style="list-style-type: none"> <li>- Eliminates juvenile legal financial obligations and associated costs. Creates the Community Compensation Program, the Community Compensation Task Force, and the Community Compensation Account.</li> <li>- Requires courts to seal records that were previously ineligible for sealing because of owed restitution.</li> </ul>
<b>HB 1440/SB 5434 - Concerning the jurisdiction of juvenile court</b>	<b>PRO</b>	<ul style="list-style-type: none"> <li>- Increases the minimum age of juvenile court jurisdiction to 13 years old and increases the maximum age of incapacity of committing a crime to 12 years old.</li> <li>- Establishes that children ages 8 through 12 charged with murder in the first or second degree are presumed incapable of committing the crime unless rebutted by clear and convincing evidence of sufficient capacity.</li> <li>- Creates a Raise the Age Juvenile Justice Task Force to consider and provide recommendations regarding implementation of juvenile jurisdiction expansion to individuals ages 18 and 19.</li> </ul>

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<b>HB 1613/SB 5467 - Encouraging treatment for possession of certain counterfeit drugs or controlled substances</b>	<b>PRO</b>	<ul style="list-style-type: none"> <li>- Requires the court to vacate the conviction of individuals convicted of possession of a controlled substance, counterfeit substance, or legend drug if the individual successfully completes substance use disorder treatment as a condition of probation.</li> <li>- Requires the court to sentence individuals convicted of possession of a controlled substance, a counterfeit substance, or a schedule II legend drug who do not agree to comply with substance use disorder treatment as a condition of probation to no less than 45 days in jail.</li> <li>- Provides for dismissal of a charge of possession of prohibited substance if the individual completes substance use disorder treatment prior to conviction on the charge.</li> <li>- Requires the toxicology laboratory to complete the necessary analysis of suspected drug evidence within 30 days of receipt of the request for analysis.</li> </ul>
<b>HB 1696 - Concerning stalking-related offenses</b>	<b>OTHER</b> No position on the contents of the bill but applauds the Legislature on the simplification of the statutes.	<ul style="list-style-type: none"> <li>- Modifies the scope of conduct that constitutes the crime of stalking.</li> <li>- Modifies certain conditions and exceptions related to stalking.</li> <li>- Repeals the statute related to the crime of cyberstalking.</li> </ul>
<b>HB 1769/SB 5644 - Concerning juvenile records</b>	<b>OTHER</b> SGC recommends further study, which includes all stakeholders, to provide recommendations to the Legislature.	<ul style="list-style-type: none"> <li>- Explains that all records relating to the commission of juvenile offenses are confidential.</li> <li>- Requires courts to provide written notice to individuals whose records are sealed that includes an explanation of what it means to have a sealed juvenile record.</li> <li>- Creates a cause of action where various legal and government entities that disseminate sealed or destroyed juvenile records may be sued for damages by the subject of those records.</li> <li>- Provides individuals whose records are eligible for sealing with access to an attorney if necessary.</li> </ul>

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<b>SB 5032 – Extending the felony driving under the influence lookback to 15 years while providing additional treatment options through the creation of a drug offender sentencing alternative for driving under the influence</b>	<b>OTHER</b> SGC supports the idea of a sentencing alternative for DUI offenses, however, the SGC believes when the midpoint is higher than 26 months, the discretion should remain with the court and not by joint agreement of the state and the defendant.	<ul style="list-style-type: none"> <li>- Creates a new Drug Offender Sentencing Alternative for Driving Under the Influence (DOSA-DUI) for first-time felony impaired driving offenses.</li> <li>- Increases the classification for an impaired driving offense from a gross misdemeanor to a felony when the person has three or more prior impaired driving offenses within 15 years, rather than within 10 years.</li> </ul>
<b>SSB 5033 – Reclassifying the sentence for the crime of custodial sexual misconduct</b>	<b>OTHER</b> SGC recommends waiting to change the classification and seriousness levels of felony offenses as a recalibration of all ranked offenses may be taking place in the near future.	<ul style="list-style-type: none"> <li>- Reclassifies the offense of Custodial Sexual Misconduct in the first degree to a class B felony, from a class C felony, and increases the seriousness level from V to VII.</li> <li>- Reclassifies the offense of Custodial Sexual Misconduct in the second degree to a class C felony, from a gross misdemeanor, and ranks the offense as a seriousness level V offense.</li> </ul>
<b>PSSB 5035 - Concerning possession of controlled substances</b>	<b>OTHER</b> SGC supports diversions from the criminal justice system but opposes increasing the penalty for Possession of Counterfeit Substance	<ul style="list-style-type: none"> <li>- Classifies possession of a counterfeit substance as a class C felony. Encourages prosecutors to divert an individual's first charge of possession of a counterfeit substance or 40 grams or less of cannabis to substance use disorder services.</li> <li>- Repeals the requirement that law enforcement officers offer a referral to substance use disorder services for an individual's first two arrests for possession of prohibited substances.</li> </ul>

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<p><b>2SSB 5046 - Concerning postconviction access to counsel</b></p>	<p><b>PRO</b> SGC supports the concept of providing counsel to individuals found indigent. This bill would reduce the inequality between those who can and cannot obtain counsel and the injustice that creates.</p>	<ul style="list-style-type: none"> <li>- Authorizes the Office of Public Defense (OPD) to provide access to counsel for indigent persons to file and prosecute a first, timely personal restraint petition and requires the OPD to establish eligibility criteria to prioritize access to counsel for youth and certain adult petitioners.</li> <li>- Authorizes the OPD to appoint counsel if the Legislature or a final decision of an appellate court creates an ability to petition the sentencing court or to challenge a conviction or sentence.</li> <li>- Requires the OPD to examine and evaluate barriers to providing postconviction counsel to file and prosecute a collateral attack and report findings and recommendations to the Legislature.</li> </ul>
<p><b>SSB 5056 - Establishing a special allegation for habitual property offenders</b></p>	<p><b>CON</b> SGC opposes SB 5056 until the Legislature resolves HB 1268 which addresses enhancements.</p>	<ul style="list-style-type: none"> <li>- Creates a special allegation for a habitual property offender.</li> <li>- Allows a court discretion to sentence a person found beyond a reasonable doubt to be a habitual property offender to an additional 24 months for a Class B felony, and an additional 12 months for a Class C felony.</li> </ul>
<p><b>E2SSB 5536 - Concerning controlled substances, counterfeit substances, and legend drug possession and treatment</b></p>	<p><b>PRO</b></p>	<ul style="list-style-type: none"> <li>- Modifies certain regulations and prohibitions under the Uniform Controlled Substances Act and related provisions of state law, including by modifying the conduct that constitutes certain drug possession offenses and the related penalties, and establishes the offenses of Knowing Possession and Use of a Controlled Substance, Counterfeit Substance, or Legend Drug in a Public Place as misdemeanors.</li> <li>- Modifies the scope of the civil infraction for giving, selling, or permitting the giving or selling of drug paraphernalia, and establishes the state's preemption of the entire field of drug paraphernalia regulation within its boundaries.</li> <li>- Establishes a pretrial diversion opportunity for persons charged with certain drug possession offenses.</li> <li>- Allows for suspension of a person's sentence for conviction of certain drug possession offenses when the person agrees as a condition of probation to obtain a biopsychosocial assessment and participate in recommended treatment or services, or court-ordered community restitution.</li> <li>- Requires courts to dismiss an applicable person's charge(s) if the person successfully completed applicable pretrial diversion or vacate an applicable person's conviction if the</li> </ul>

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		<p>person successfully completes recommended treatment or services, or court-order community restitution.</p> <ul style="list-style-type: none"> <li>- Requires courts to vacate a person's conviction for certain drug possession offenses if the person has no additional arrests, charges, or convictions in the one year after the person's present conviction.</li> <li>- Repeals the provision requiring law enforcement to offer a person who would otherwise be subject to arrest for certain drug possession offenses two referrals to assessment and services in lieu of legal system involvement prior to booking the person into jail and referring the case for prosecution.</li> <li>- Requires the Washington State Patrol, beginning January 1, 2025, to aim to complete the necessary analysis for evidence submitted for suspected violations of certain drug possession offenses within 45 days of receiving the request for analysis.</li> <li>- Requires the Administrative Office of the Courts to collect data and submit reports to the Legislature regarding the utilization and outcome of specific forms of pretrial diversion, sentencing, and postconviction relief.</li> <li>- Establishes new programs and services and modifies the scope of existing programs and services related to substance use disorder treatment and recovery.</li> </ul>
<p><b>SB 5588 - Concerning the mental health sentencing alternative</b></p>	<p><b>PRO</b></p>	<ul style="list-style-type: none"> <li>- Requires the Department of Corrections (DOC) to include a diagnosis for the defendant in its written report when a defendant applies for a Mental Health Sentencing Alternative.</li> <li>- Removes a requirement for DOC to provide a proposed treatment plan for the defendant.</li> <li>- Allows courts to waive a requirement for DOC and the treatment provider to provide written reports before progress hearings.</li> </ul>

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<p><b>SB 5624 - Implementing the recommendations of the substance use recovery services advisory committee</b></p>	<p><b>PRO</b></p>	<p><b>Enacts recommendations of the Substance Use and Recovery Services Advisory Committee related to legalization of possession of controlled substances and support for and expansion of substance use disorder treatment programs and related services.</b></p> <p><b>Part 1 - Decriminalization of Possession of a Personal Amount of a Counterfeit Substance, CS, or Legend Drug for Persons 21 yrs or older</b></p> <ul style="list-style-type: none"> <li>- Makes possessing more than a personal amount of or possessing when under age 21 a counterfeit substance/CS/legend drug a misdemeanor. Prosecutors are encouraged to divert such cases for assessment, treatment or other services.</li> <li>- Adds section where the state fully occupies and preempts the entire field of drug paraphernalia regulation.</li> </ul>
<p><b>SHB 1394/SB 5543 - Creating a developmentally appropriate response to youth who commit sexual offenses</b></p>	<p><b>NO POSITION</b> The SGC defers to the SOPB on this bill</p>	<ul style="list-style-type: none"> <li>- Places limits on when a juvenile is required to register in the sex offender registry based on committing a sex offense.</li> <li>- Reduces the time period a person adjudicated in juvenile court must register as a sex offender to two or three years.</li> <li>- Reduces the classification of failing to register as a sex offender to a gross misdemeanor for individuals who are required to register based on the commission of a juvenile sex offense.</li> </ul>
<p><b>SB 5160 – Concerning organized retail theft</b></p>	<p><b>NO POSITION</b></p>	<p>Adds an additional way to commit organized retail theft in the 2nd degree.</p>
<p><b>SSB 5635 – Concerning victims’ rights</b></p>	<p><b>NO POSITION</b></p>	<ul style="list-style-type: none"> <li>- Expands the rights of victims and survivors of victims to be informed of the trial and sentencing hearing in any case, and to present a statement personally or by representation at the sentencing in any case.</li> <li>- Provides additional rights to have the victims' safety considered in bail considerations, to provide written input when the court sets a date for trial, and to be informed of the offender’s place of incarceration, release from confinement, and any escape.</li> <li>- Specifies that the Legislature intends to provide funding sufficient to support crime victim advocates and prosecutors in their work to ensure the rights granted to victims, survivors of victims, and witnesses of crimes are protected.</li> </ul>