

SENATE BILL REPORT

ESSB 5342

As of Third Reading

Title: An act relating to drug courts.

Brief Description: Modifying drug court provisions.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline and Kohl-Welles).

Brief History:

Committee Activity: Judiciary: 1/23/07, 2/23/07 [DPS, DNP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5342 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; Hargrove, Murray and Weinstein.

Minority Report: Do not pass.

Signed by Senator Carrell.

Staff: Lidia Mori (786-7755)

Background: Drug courts, unlike traditional courts, divert drug offenders into court-ordered treatment programs rather than jail or prison. A "drug court" is a court that has special calendars designed to achieve a reduction in recidivism and substance abuse among substance-abusing offenders by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services. Drug court programs allow defendants to choose an intensive, heavily supervised, rehabilitation program in lieu of incarceration and a criminal record.

In order to qualify for a state appropriation to fund a drug court program, a county must: (1) exhaust all federal funding received to support the operations of its drug court program; and (2) match, on a dollar-for-dollar basis, any state funding allocated for its drug court program with local cash or in-kind resources.

Minimum drug court eligibility requirements are established by statute. A county may impose requirements for admission into its local drug court program that are more stringent than the statutory minimum. To be eligible for drug court admission, it must be shown that a defendant: (1) would benefit from substance abuse treatment; (2) has not been previously

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convicted of a serious violent offense or a sex offense; and (3) is not currently charged or convicted of a sex offense, a serious violent offense, an offense involving a firearm, or an offense during which the defendant caused substantial or great bodily harm or death to a person.

If the prosecuting attorney finds a defendant eligible and appropriate for drug court, the defendant may be offered drug court as an alternative to prosecution. If the defendant fails to complete treatment, he or she is prosecuted for the original charge.

Summary of Engrossed Substitute Bill: The requirement that an offender not have been previously convicted of a serious violent offense or a sex offense in order to be eligible for substance abuse treatment through a drug court is removed.

If an offender is not referred to drug court after his or her case is screened by a prosecutor, the offender has a right to petition the court for a hearing on the issue of eligibility for participation in drug court.

Counties have the option of designing and implementing a policy that would allow offenders who have previously been convicted of a serious violent offense and/or a sex offense to participate in a drug court program.

The drug court may charge a reasonable fee for participation in the drug court program.

Appropriation: None.

Fiscal Note: Requested on January 22, 2007.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: It is important that the court have the opportunity to decide if an offender could benefit from drug court. There have been times in King County where an offender didn't meet the eligibility criteria but was allowed in to drug court and it worked out just fine. On the flip side, it has also happened that an offender met all the eligibility criteria and yet it didn't work out well. This bill only deals with prior offenses. People that meet current statutory criteria except for their past offenses should be able to participate in drug court.

CON: There is a better outcome with a small subset of offenders that is carefully screened. In Kitsap county, the prosecutor "kicks it off" and then the other professionals that are involved with drug court weigh in. It's a consensus opinion. Drug courts are spreading like a ray of sunshine across the state. But if you mandate that the offender can petition the Court, the judge may not know the information that the prosecutor is privy to. Drug court is labor intensive and should be used by those who would benefit the most. The restrictions in current law came from the federal government. If those restrictions are removed, that federal money would be lost.

OTHER: Each county should be allowed to decide for itself whether to implement a policy that would allow an offender to petition the court, following a screening.

Persons Testifying on Original Bill: PRO: Jennifer Shaw, ACLU-Washington.

CON: Russ Hauge, Kitsap County Prosecutor.

OTHER: Jill Johanson, Cowlitz County Superior Court, Washington Association Drug Court Professionals.