

SB 5797 - H COMM AMD
By Committee on Judiciary

ADOPTED AS AMENDED 04/12/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that in the state of
4 Washington, there exists a type of court administered by the judiciary
5 commonly called a specialty or therapeutic court. Judges in the trial
6 courts throughout the state effectively utilize specialty and
7 therapeutic courts to remove defendants with their consent and the
8 consent of the prosecuting authority from the normal criminal court
9 system and allow those defendants the opportunity to obtain treatment
10 services to address particular issues that may have contributed to the
11 conduct that led to their arrest in exchange for dismissal of the
12 charges. Trial courts have proved adept at creative approaches in
13 fashioning a wide variety of specialty and therapeutic courts
14 addressing the spectrum of social issues that can contribute to
15 criminal activity.

16 The legislature also finds that there are presently more than
17 seventy-four specialty and therapeutic courts operating in the state of
18 Washington that save costs to both the trial courts and law enforcement
19 by strategic focus of resources within the criminal justice system.
20 There are presently more than fifteen types of specialty and
21 therapeutic courts in the state including: Veterans treatment court,
22 adult drug court, juvenile drug court, family dependency treatment
23 court, mental health court, DUI court, community court, reentry drug
24 court, tribal healing to wellness court, truancy court, homeless court,
25 domestic violence court, gambling court, and Back on TRAC: Treatment,
26 responsibility, accountability on campus.

27 The legislature recognizes the inherent authority of the judiciary
28 under Article IV, section 1 of the state Constitution to establish
29 specialty and therapeutic courts. The legislature recognizes the
30 outstanding contribution to the state and a local community made by the

1 establishment of specialty and therapeutic courts and desires to
2 provide a general provision in statute acknowledging and encouraging
3 the judiciary to provide for such courts to address the particular
4 needs within a given judicial jurisdiction.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 2.28 RCW
6 to read as follows:

7 (1) The legislature respectfully encourages the supreme court to
8 adopt any administrative orders and court rules of practice and
9 procedure it deems necessary to support the establishment of effective
10 specialty and therapeutic courts.

11 (2) Any jurisdiction may establish a specialty or therapeutic court
12 under this section and may seek state or federal funding as it becomes
13 available for the establishment, maintenance, and expansion of
14 specialty and therapeutic courts and for the provision by participating
15 agencies of treatment to participating defendants.

16 (3) Any jurisdiction establishing a specialty court shall endeavor
17 to incorporate the treatment court principles of best practices as
18 recognized by state and national treatment court agencies and
19 organizations in structuring a particular program, which may include:

- 20 (a) Determine the population;
21 (b) Perform a clinical assessment;
22 (c) Develop the treatment plan;
23 (d) Supervise the offender;
24 (e) Forge agency, organization, and community partnerships;
25 (f) Take a judicial leadership role;
26 (g) Develop case management strategies;
27 (h) Address transportation issues;
28 (i) Evaluate the program;
29 (j) Ensure a sustainable program.

30 (4) Specialty and therapeutic courts shall continue to: (a) Obtain
31 the consent of the prosecuting authority in order to remove a charged
32 offender from the regular course of prosecution and punishment; and (b)
33 comply with sentencing requirements as established in state law.

34 NEW SECTION. **Sec. 3.** The superior court judges' association and
35 the district and municipal court judges' association are encouraged to
36 invite other appropriate organizations and convene a work group to

1 examine the structure of all specialty and therapeutic courts in
2 Washington. If such a work group is convened, the legislature requests
3 a recommendation for the structure for such courts in the law and court
4 rules, incorporating principles of best practices relative to a
5 particular court as recognized by state and national treatment court
6 agencies and organizations, to make such courts more effective and more
7 prevalent throughout the state. The legislature requests such
8 recommendations prior to the beginning of the 2014 legislative session,
9 and respectfully requests the supreme court to consider any
10 recommendations from the work group pertaining to necessary changes in
11 court rules.

12 NEW SECTION. **Sec. 4.** For the purposes of this act, "specialty
13 court" and "therapeutic court" both mean a specialized pretrial or
14 sentencing docket in select criminal cases where agencies coordinate
15 work to provide treatment for a defendant who has particular needs.

16 **Sec. 5.** RCW 2.28.170 and 2009 c 445 s 2 are each amended to read
17 as follows:

18 (1) (~~Counties~~) Jurisdictions may establish and operate drug
19 courts.

20 (2) For the purposes of this section, "drug court" means a court
21 that has special calendars or dockets designed to achieve a reduction
22 in recidivism and substance abuse among nonviolent, substance abusing
23 felony and nonfelony offenders, whether adult or juvenile, by
24 increasing their likelihood for successful rehabilitation through
25 early, continuous, and intense judicially supervised treatment;
26 mandatory periodic drug testing; and the use of appropriate sanctions
27 and other rehabilitation services.

28 (3)(a) Any jurisdiction that seeks a state appropriation to fund a
29 drug court program must first:

30 (i) Exhaust all federal funding that is available to support the
31 operations of its drug court and associated services; and

32 (ii) Match, on a dollar-for-dollar basis, state moneys allocated
33 for drug court programs with local cash or in-kind resources. Moneys
34 allocated by the state must be used to supplement, not supplant, other
35 federal, state, and local funds for drug court operations and
36 associated services. However, from July 26, 2009, until June 30, 2013,

1 no match is required for state moneys expended for the administrative
2 and overhead costs associated with the operation of a drug court
3 pursuant to RCW 70.96A.350.

4 (b) Any (~~county~~) jurisdiction that establishes a drug court
5 pursuant to this section shall establish minimum requirements for the
6 participation of offenders in the program. The drug court may adopt
7 local requirements that are more stringent than the minimum. The
8 minimum requirements are:

- 9 (i) The offender would benefit from substance abuse treatment;
- 10 (ii) The offender has not previously been convicted of a serious
11 violent offense or sex offense as defined in RCW 9.94A.030; and
- 12 (iii) Without regard to whether proof of any of these elements is
13 required to convict, the offender is not currently charged with or
14 convicted of an offense:
 - 15 (A) That is a sex offense;
 - 16 (B) That is a serious violent offense;
 - 17 (C) During which the defendant used a firearm; or
 - 18 (D) During which the defendant caused substantial or great bodily
19 harm or death to another person.

20 **Sec. 6.** RCW 2.28.175 and 2012 c 183 s 1 are each amended to read
21 as follows:

22 (1) (~~Counties~~) Jurisdictions may establish and operate DUI
23 courts. Municipalities may enter into cooperative agreements with
24 counties or other municipalities that have DUI courts to provide DUI
25 court services.

26 (2) For the purposes of this section, "DUI court" means a court
27 that has special calendars or dockets designed to achieve a reduction
28 in recidivism of impaired driving among nonviolent, alcohol abusing
29 offenders, whether adult or juvenile, by increasing their likelihood
30 for successful rehabilitation through early, continuous, and intense
31 judicially supervised treatment; mandatory periodic testing for alcohol
32 use and, if applicable, drug use; and the use of appropriate sanctions
33 and other rehabilitation services.

34 (3)(a) Any jurisdiction that seeks a state appropriation to fund a
35 DUI court program must first:

- 36 (i) Exhaust all federal funding that is available to support the
37 operations of its DUI court and associated services; and

1 (ii) Match, on a dollar-for-dollar basis, state moneys allocated
2 for DUI court programs with local cash or in-kind resources. Moneys
3 allocated by the state must be used to supplement, not supplant, other
4 federal, state, and local funds for DUI court operations and associated
5 services. However, until June 30, 2014, no match is required for state
6 moneys expended for the administrative and overhead costs associated
7 with the operation of a DUI court established as of January 1, 2011.

8 (b) Any jurisdiction that establishes a DUI court pursuant to this
9 section shall establish minimum requirements for the participation of
10 offenders in the program. The DUI court may adopt local requirements
11 that are more stringent than the minimum. The minimum requirements
12 are:

13 (i) The offender would benefit from alcohol treatment;

14 (ii) The offender has not previously been convicted of a serious
15 violent offense or sex offense as defined in RCW 9.94A.030, vehicular
16 homicide under RCW 46.61.520, vehicular assault under RCW 46.61.522, or
17 an equivalent out-of-state offense; and

18 (iii) Without regard to whether proof of any of these elements is
19 required to convict, the offender is not currently charged with or
20 convicted of an offense:

21 (A) That is a sex offense;

22 (B) That is a serious violent offense;

23 (C) That is vehicular homicide or vehicular assault;

24 (D) During which the defendant used a firearm; or

25 (E) During which the defendant caused substantial or great bodily
26 harm or death to another person.

27 **Sec. 7.** RCW 2.28.180 and 2011 c 236 s 1 are each amended to read
28 as follows:

29 (1) (~~Counties~~) Jurisdictions may establish and operate mental
30 health courts.

31 (2) For the purposes of this section, "mental health court" means
32 a court that has special calendars or dockets designed to achieve a
33 reduction in recidivism and symptoms of mental illness among
34 nonviolent, felony and nonfelony offenders with mental illnesses and
35 recidivism among nonviolent felony and nonfelony offenders who have
36 developmental disabilities as defined in RCW 71A.10.020 or who have
37 suffered a traumatic brain injury by increasing their likelihood for

1 successful rehabilitation through early, continuous, and intense
2 judicially supervised treatment including drug treatment for persons
3 with co-occurring disorders; mandatory periodic reviews, including drug
4 testing if indicated; and the use of appropriate sanctions and other
5 rehabilitation services.

6 (3)(a) Any jurisdiction that seeks a state appropriation to fund a
7 mental health court program must first:

8 (i) Exhaust all federal funding that is available to support the
9 operations of its mental health court and associated services; and

10 (ii) Match, on a dollar-for-dollar basis, state moneys allocated
11 for mental health court programs with local cash or in-kind resources.
12 Moneys allocated by the state must be used to supplement, not supplant,
13 other federal, state, and local funds for mental health court
14 operations and associated services.

15 (b) Any ((~~county~~)) jurisdiction that establishes a mental health
16 court pursuant to this section shall establish minimum requirements for
17 the participation of offenders in the program. The mental health court
18 may adopt local requirements that are more stringent than the minimum.
19 The minimum requirements are:

20 (i) The offender would benefit from psychiatric treatment or
21 treatment related to his or her developmental disability or traumatic
22 brain injury;

23 (ii) The offender has not previously been convicted of a serious
24 violent offense or sex offense as defined in RCW 9.94A.030; and

25 (iii) Without regard to whether proof of any of these elements is
26 required to convict, the offender is not currently charged with or
27 convicted of an offense:

- 28 (A) That is a sex offense;
- 29 (B) That is a serious violent offense;
- 30 (C) During which the defendant used a firearm; or
- 31 (D) During which the defendant caused substantial or great bodily
32 harm or death to another person.

33 **Sec. 8.** RCW 2.28.190 and 2011 c 293 s 11 are each amended to read
34 as follows:

35 Any ((~~county~~)) jurisdiction that has established a DUI court, drug
36 court, and a mental health court under this chapter may combine the
37 functions of these courts into a single therapeutic court.

1 NEW SECTION. **Sec. 9.** This act takes effect August 1, 2013."

2 Correct the title.

EFFECT: Includes references to "therapeutic courts" wherever reference is made to "specialty courts."

Provides that specialty and therapeutic courts must continue to obtain consent of the prosecuting authority before transferring a defendant to specialty court, and must comply with the sentencing requirements in state law.

Removes language stating that the administrative office of the courts may enter into agreements with state and federal agencies for provision of treatment and other services, and language requiring agencies' collaboration and provision of financial assistance to the judicial branch to support specialty courts.

Modifies the definition of specialty courts to include therapeutic courts, and removes language stating that these courts contract or collaborate with treatment providers, but do not provide treatment.

Amends the statutes authorizing the establishment of drug courts, DUI courts, and mental health courts to specify that jurisdictions, rather than counties, are authorized to establish such courts.

Adds a section encouraging the superior court judges' association and the district and municipal court judges' association to invite other appropriate organizations to participate in a work group to examine the structure of specialty and therapeutic courts in the state and, if convened, provide recommendations regarding the structure and best practices for these courts.

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