

# SENATE BILL REPORT

## SB 5797

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As Amended by House, April 12, 2013

**Title:** An act relating to specialty courts.

**Brief Description:** Encouraging the establishment of effective specialty courts.

**Sponsors:** Senators Hobbs and Padden.

**Brief History:**

**Committee Activity:** Law & Justice: 2/20/13, 2/21/13 [DP].

Passed Senate: 3/13/13, 49-0.

Passed House: 4/12/13, 94-1.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Kline, Ranking Member; Darneille, Kohl-Welles, Pearson and Roach.

**Staff:** Aldo Melchiori (786-7439)

**Background:** Twenty-four counties in Washington have special problem-solving courts or calendars. These include the following.

Adult Drug Court. Adult drug courts have a specially designed court calendar or docket, the purposes of which are to achieve a reduction in recidivism and substance abuse among nonviolent substance abusing offenders and to increase the offender's likelihood of successful habilitation through early, continuous, and intense judicially supervised treatment, mandatory periodic drug testing, community supervision, and use of appropriate sanctions and other rehabilitation services.

Juvenile Drug Court. Juvenile drug court have a docket within a juvenile court to which selected delinquency cases, and in some instances status offenders, are referred for handling by a designated judge. The youth referred to this docket are identified as having problems with alcohol and/or other drugs. In Washington, all of the juvenile drug courts, with the exception of one, deal exclusively with juvenile offenders.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Family Dependency Treatment Court. Family dependency treatment court is a juvenile or family court docket of which selected abuse, neglect, and dependency cases are identified where parental substance abuse is a primary factor. Family dependency treatment courts aid parents in regaining control of their lives and promote long-term stabilized recovery to enhance the possibility of family reunification within mandatory legal timeframes.

Mental Health Court. Modeled after drug courts and developed in response to the overrepresentation of people with mental illnesses in the criminal justice system, mental health courts divert select defendants with mental illnesses into judicially supervised, community-based treatment. Currently, all mental health courts are voluntary. Defendants are invited to participate in the mental health court following a specialized screening and assessment, and they may choose to decline participation.

DWI Court. A DWI court is a distinct post-conviction court system dedicated to changing the behavior of an alcohol-dependent repeat offender arrested for driving while impaired (DWI). The goal of the DWI court is to protect public safety by using the drug court model to address the root cause of impaired driving, which is alcohol and other drugs of abuse. Variants of DWI courts include drug courts that also take DWI offenders, which are commonly referred to as hybrid DWI courts or DWI drug courts.

Veterans Treatment Court. The Veterans Treatment Court model uses veterans as mentors to help defendants engage in treatment and counseling as well as partner with local Veterans Affairs offices to ensure that participants receive proper benefits.

Community Court. Community courts bring the court and community closer by locating the court within the community where quality of life crimes are committed for example, petty theft, turnstile jumping, vandalism, etc. With community boards and the local police as partners, community courts have the bifurcated goal of solving the problems of defendants appearing before the court, while using the leverage of the court to encourage offenders to give back to the community in compensation for damage they and others have caused.

Reentry Drug Court. Reentry drug courts utilize the drug court model to facilitate the reintegration of drug-involved offenders into communities upon their release from local or state correctional facilities. Reentry drug court participants are provided with specialized ancillary services needed for successful reentry into the community.

Truancy Court. Truancy courts assist in overcoming the underlying causes of truancy in a child's life by reinforcing education through efforts from the school, courts, mental health providers, families, and the community. Truancy court is often held on the school grounds and results in the ultimate dismissal of truancy petitions if the child can be helped to attend school regularly.

Homeless Court. A homeless court is a special court session held in a local shelter or other community site designed for homeless citizens to resolve outstanding misdemeanor criminal warrants.

Domestic Violence Court. A felony domestic violence court is designed to address traditional problems of domestic violence such as low reports, withdrawn charges, threats to victim, lack

of defendant accountability, and high recidivism, by intense judicial scrutiny of the defendant and close cooperation between the judiciary and social services. A permanent judge works with the prosecution, assigned victim advocates, social services, and the defense. Variants include the misdemeanor domestic violence court that handles larger volumes of cases and is designed to combat the progressive nature of the crime to preempt later felonies, and the integrated domestic violence court in which a single judge handles all judicial aspects relating to one family, including criminal cases, protective orders, custody, visitation, and divorce.

Gambling Court. Operating under the same protocols and guidelines utilized within the drug court model, gambling courts intervene in a therapeutic fashion as a result of pending criminal charges with those individuals who are suffering from a pathological or compulsive gambling disorder. Participants enroll in a contract-based, judicially supervised gambling recovery program and are exposed to an array of services.

Back on TRAC: Treatment, Responsibility, Accountability on Campus. The Back on TRAC clinical justice model adopts the integrated public health and public safety principles and components of the successful drug court model and applies them to the college environment. It targets college students whose excessive use of substances has continued despite higher education's best efforts at education, prevention, or treatment and has ultimately created serious consequences for themselves or others.

**Summary of Bill:** Specialty court is defined as a specialized pretrial or sentencing docket in select criminal cases where agencies coordinate together to provide treatment for a defendant who has particular needs. Specialty courts do not provide treatment but contract or collaborate with experienced and expert treatment providers.

The Legislature respectfully encourages the supreme court to adopt any administrative orders and court rules of practice and procedure it deems necessary to support the establishment of effective specialty courts. Any jurisdiction that establishes a specialty court may seek state or federal funding as it becomes available for the establishment, maintenance, and expansion of the specialty courts and for the provision by participating agencies of treatment to participating defendants. The administrative office of the courts may enter into contracts and cooperative agreements with state or federal departments and agencies to provide treatment and other social services to participants. The departments and agencies must collaborate and, to the extent possible, provide financial and other assistance to the judicial branch in order to establish and maintain specialty courts.

Any jurisdiction establishing a specialty court must endeavor to incorporate the treatment court principles and best practices as recognized by state and national treatment court agencies and organizations in structuring a particular program, which may include the following:

- determining the population;
- performing a clinical assessment;
- development of a treatment plan;
- supervising the offender;
- forging agency, organization, and community partnerships;
- taking a judicial leadership role;

- developing case management strategies;
- addressing transportation issues;
- evaluation of the program; and
- ensuring a sustainable program.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on August 1, 2013.

**Staff Summary of Public Testimony:** PRO: Veterans have special needs that can often best be handled in courts that are specially convened to deal with them. Veterans courts are a priority for the Department of Defense (DOD). Of veterans, 20 percent have some degree of post traumatic stress disorder (PTSD). Effective therapeutic courts reduce recidivism. The bill allows for local options and adaptations to suit local needs. The courts appreciate this effort to encourage specialty courts.

OTHER: We need more than a statement of encouragement, we need a statewide workgroup. The Legislature has limited court dispositions under the Sentencing Reform Act and those limitations need to be considered when forming local specialty courts. Drug courts are diversion programs administered under a contract between the defendant and the prosecuting attorney.

**Persons Testifying:** PRO: Senator Hobbs, prime sponsor; Mark San Souci, DOD; Judge Charles Snyder, Superior Court Judges Assn., Board for Judicial Administration; Ehren Flygare, National Guard Assn. of WA.

OTHER: Russ Hauge, WA Assn. of Prosecuting Attorneys; Bob Cooper, WA Assn. of Drug Courts.

**House Amendment(s):** References to therapeutic courts are made wherever a reference is made to specialty courts. Specialty and therapeutic courts must continue to obtain consent of the prosecuting authority before transferring a defendant to a specialty or therapeutic court, and must comply with the sentencing requirements in state law. Language stating that the administrative office of the courts may enter into agreements with state and federal agencies for provisions of treatment and other services, and language requiring agencies' collaboration and provision of financial assistance to the judicial branch to support specialty courts are removed.

The definition of specialty courts is modified to include therapeutic courts, and language stating that these courts contract or collaborate with treatment providers, but do not provide treatment is removed. The statutes authorizing the establishment of drug courts, DUI courts, and mental health courts are amended to specify that jurisdictions, rather than counties, are authorized to establish such courts. The superior court judges' association and the district and municipal court judges' association are encouraged to invite other appropriate organizations to participate in a

workgroup 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.

Specialty and therapeutic courts must not enforce any foreign law that violates a constitutional right. Specialty or therapeutic courts are prohibited from applying foreign law that is not otherwise required by treaty.