
SUBSTITUTE HOUSE BILL 2556

State of Washington

63rd Legislature

2014 Regular Session

By House Judiciary (originally sponsored by Representatives Freeman, Rodne, Kagi, and Pollet)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to authorizing, funding, and encouraging the
2 establishment of therapeutic courts; amending RCW 82.14.460, 9.94A.517,
3 9.94A.517, and 70.96A.350; adding a new chapter to Title 2 RCW;
4 creating a new section; repealing RCW 2.28.170, 2.28.175, 2.28.180,
5 2.28.190, 13.40.700, 13.40.710, 26.12.250, 2.28.165, and 2.28.166;
6 providing an effective date; and providing an expiration date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that judges in the
9 trial courts throughout the state effectively utilize what are known as
10 therapeutic courts to remove a defendant's or respondent's case, with
11 the consent of the defendant or respondent and the consent of a
12 government authority, from the criminal and civil court traditional
13 trial track and allow those defendants or respondents the opportunity
14 to obtain treatment services to address particular issues that may have
15 contributed to the conduct that led to their arrest or other issues
16 before the court. Trial courts have proved adept at creative
17 approaches in fashioning a wide variety of therapeutic courts
18 addressing the spectrum of social issues that can contribute to
19 criminal activity and engagement with the child welfare system.

1 (2) The legislature further finds that by focusing on the specific
2 individual's needs, providing treatment for the issues presented, and
3 ensuring rapid and appropriate accountability for program violations,
4 therapeutic courts may decrease recidivism, improve the safety of the
5 community, and improve the life of the program participant and the
6 lives of the participant's family members by decreasing the severity
7 and frequency of the specific behavior addressed by the therapeutic
8 court.

9 (3) The legislature recognizes the inherent authority of the
10 judiciary under Article IV, section 1 of the state Constitution to
11 establish therapeutic courts, and the outstanding contribution to the
12 state and local communities made by the establishment of therapeutic
13 courts and desires to provide a general provision in statute
14 acknowledging and encouraging the judiciary to provide for therapeutic
15 court programs to address the particular needs within a given judicial
16 jurisdiction.

17 (4) Therapeutic court programs may include, but are not limited to:
18 (a) Adult drug court;
19 (b) Juvenile drug court;
20 (c) Family dependency treatment court or family drug court;
21 (d) Mental health court, which may include participants with
22 developmental disabilities;
23 (e) DUI court;
24 (f) Veterans treatment court;
25 (g) Truancy court;
26 (h) Domestic violence court;
27 (i) Gambling court;
28 (j) Community court;
29 (k) Homeless court;
30 (l) Treatment, responsibility, and accountability on campus (Back
31 on TRAC) court.

32 NEW SECTION. **Sec. 2.** The definitions in this section apply
33 throughout this chapter unless the context clearly requires otherwise.

34 (1) "Emerging best practice" or "promising practice" means a
35 program or practice that, based on statistical analyses or a well-
36 established theory of change, shows potential for meeting the evidence-

1 based or research-based criteria, which may include the use of a
2 program that is evidence-based for outcomes other than those listed in
3 this section.

4 (2) "Evidence-based" means a program or practice that: (a) Has
5 been tested in heterogeneous or intended populations with multiple
6 randomized, or statistically controlled evaluations, or both; or one
7 large multiple site randomized, or statistically controlled evaluation,
8 or both, where the weight of the evidence from a systemic review
9 demonstrates sustained improvements in at least one outcome; or (b) may
10 be implemented with a set of procedures to allow successful replication
11 in Washington and, when possible, is determined to be cost-beneficial.

12 (3) "Government authority" means prosecutor or other representative
13 initiating action leading to a proceeding in therapeutic court.

14 (4) "Participant" means an accused person, offender, or respondent
15 in the judicial proceeding.

16 (5) "Research-based" means a program or practice that has been
17 tested with a single randomized, or statistically controlled
18 evaluation, or both, demonstrating sustained desirable outcomes; or
19 where the weight of the evidence from a systemic review supports
20 sustained outcomes as described in this subsection but does not meet
21 the full criteria for evidence-based.

22 (6) "Specialty court" and "therapeutic court" both mean a court
23 utilizing a program or programs structured to achieve both a reduction
24 in recidivism and an increase in the likelihood of rehabilitation, or
25 to reduce child abuse and neglect, out-of-home placements of children,
26 termination of parental rights, and substance abuse and mental health
27 symptoms among parents or guardians and their children through
28 continuous and intense judicially supervised treatment and the
29 appropriate use of services, sanctions, and incentives.

30 (7) "Therapeutic court personnel" means the staff of a therapeutic
31 court including, but not limited to: Court and clerk personnel with
32 therapeutic court duties, prosecuting attorneys, the attorney general
33 or his or her representatives, defense counsel, monitoring personnel,
34 and others acting within the scope of therapeutic court duties.

35 (8) "Trial court" means a superior court authorized under Title 2
36 RCW or a district or municipal court authorized under Title 3 or 35
37 RCW.

1 NEW SECTION. **Sec. 3.** (1) Every trial and juvenile court in the
2 state of Washington is authorized and encouraged to establish and
3 operate therapeutic courts. Therapeutic courts, in conjunction with
4 the government authority and subject matter experts specific to the
5 focus of the therapeutic court, develop and process cases in ways that
6 depart from traditional judicial processes to allow defendants or
7 respondents the opportunity to obtain treatment services to address
8 particular issues that may have contributed to the conduct that led to
9 their arrest or involvement in the child welfare system in exchange for
10 resolution of the case or charges. Defendants or respondents must
11 consent to participation in a therapeutic court and, in criminal cases,
12 the consent of the prosecutor is also required.

13 (2) While a therapeutic court judge retains the discretion to
14 decline to accept a case into the therapeutic court, and while a
15 therapeutic court retains discretion to establish processes and
16 determine eligibility for admission to the therapeutic court process
17 unique to their community and jurisdiction, the effectiveness and
18 credibility of any therapeutic court will be enhanced when the court
19 implements evidence-based practices, research-based practices, emerging
20 best practices, or promising practices that have been identified and
21 accepted at the state and national levels. Promising practices,
22 emerging best practices, and/or research-based programs are authorized
23 where determined by the court to be appropriate. As practices evolve,
24 the trial court shall regularly assess the effectiveness of its program
25 and the methods by which it implements and adopts new best practices.

26 (3) Except under special findings by the court, the following
27 individuals are not eligible for participation in therapeutic courts:

28 (a) Individuals who are currently charged or who have been
29 previously convicted of a serious violent offense or sex offense as
30 defined in RCW 9.94A.030;

31 (b) Individuals who are currently charged with an offense alleging
32 intentional discharge, threat to discharge, or attempt to discharge a
33 firearm in furtherance of the offense;

34 (c) Individuals who are currently charged with or who have been
35 previously convicted of vehicular homicide or an equivalent out-of-
36 state offense; or

37 (d) Individuals who are currently charged with or who have been

1 previously convicted of: An offense alleging substantial bodily harm
2 or great bodily harm as defined in RCW 9A.04.110, or death of another
3 person.

4 (4) Any jurisdiction establishing a therapeutic court shall
5 endeavor to incorporate the therapeutic court principles of best
6 practices as recognized by state and national therapeutic court
7 organizations in structuring a particular program, which may include:

- 8 (a) Determining the population;
- 9 (b) Performing a clinical assessment;
- 10 (c) Developing the treatment plan;
- 11 (d) Monitoring the participant, including any appropriate testing;
- 12 (e) Forging agency, organization, and community partnerships;
- 13 (f) Taking a judicial leadership role;
- 14 (g) Developing case management strategies;
- 15 (h) Addressing transportation, housing, and subsistence issues;
- 16 (i) Evaluating the program;
- 17 (j) Ensuring a sustainable program.

18 (5) Upon a showing of indigence under RCW 10.101.010, fees may be
19 reduced or waived.

20 (6) The department of social and health services shall furnish
21 services to therapeutic courts addressing dependency matters where
22 substance abuse or mental health are an issue unless the court
23 contracts with providers outside of the department.

24 (7) Any jurisdiction that has established more than one therapeutic
25 court under this chapter may combine the functions of these courts into
26 a single therapeutic court.

27 (8) Nothing in this section prohibits a district or municipal court
28 from ordering treatment or other conditions of sentence or probation
29 following a conviction, without the consent of either the prosecutor or
30 defendant.

31 NEW SECTION. **Sec. 4.** Jurisdictions seeking state funding for
32 therapeutic courts must exhaust all federal funding available to
33 support the operation of its therapeutic court and associated services
34 and match, on a dollar-for-dollar basis, state moneys allocated for
35 therapeutic courts with local cash or in-kind resources. Moneys
36 allocated by the state may be used to supplement, not supplant other
37 federal, state, and local funds for therapeutic courts. However, until

1 June 30, 2015, no match is required for state moneys expended for the
2 administrative and overhead costs associated with the operation of a
3 therapeutic court authorized under this chapter.

4 **Sec. 5.** RCW 82.14.460 and 2012 c 180 s 1 are each amended to read
5 as follows:

6 (1)(a) A county legislative authority may authorize, fix, and
7 impose a sales and use tax in accordance with the terms of this
8 chapter.

9 (b) If a county with a population over eight hundred thousand has
10 not imposed the tax authorized under this subsection by January 1,
11 2011, any city with a population over thirty thousand located in that
12 county may authorize, fix, and impose the sales and use tax in
13 accordance with the terms of this chapter. The county must provide a
14 credit against its tax for the full amount of tax imposed under this
15 subsection (1)(b) by any city located in that county if the county
16 imposes the tax after January 1, 2011.

17 (2) The tax authorized in this section is in addition to any other
18 taxes authorized by law and must be collected from those persons who
19 are taxable by the state under chapters 82.08 and 82.12 RCW upon the
20 occurrence of any taxable event within the county for a county's tax
21 and within a city for a city's tax. The rate of tax equals one-tenth
22 of one percent of the selling price in the case of a sales tax, or
23 value of the article used, in the case of a use tax.

24 (3) Moneys collected under this section must be used solely for the
25 purpose of providing for the operation or delivery of chemical
26 dependency or mental health treatment programs and services and for the
27 operation or delivery of therapeutic court programs and services. For
28 the purposes of this section, "programs and services" includes, but is
29 not limited to, treatment services, case management, transportation,
30 and housing that are a component of a coordinated chemical dependency
31 or mental health treatment program or service. Every jurisdiction that
32 authorizes the tax provided in this section shall, and every other
33 jurisdiction may, establish and operate a therapeutic court component
34 for dependency proceedings designed to be effective for the court's
35 size, location, and resources.

36 (4) All moneys collected under this section must be used solely for

1 the purpose of providing new or expanded programs and services as
2 provided in this section, except as follows:

3 (a) For a county with a population larger than twenty-five thousand
4 or a city with a population over thirty thousand, which initially
5 imposed the tax authorized under this section prior to January 1, 2012,
6 a portion of moneys collected under this section may be used to
7 supplant existing funding for these purposes as follows: Up to fifty
8 percent may be used to supplant existing funding in calendar years
9 2011-2012; up to forty percent may be used to supplant existing funding
10 in calendar year 2013; up to thirty percent may be used to supplant
11 existing funding in calendar year 2014; up to twenty percent may be
12 used to supplant existing funding in calendar year 2015; and up to ten
13 percent may be used to supplant existing funding in calendar year 2016;

14 (b) For a county with a population larger than twenty-five thousand
15 or a city with a population over thirty thousand, which initially
16 imposes the tax authorized under this section after December 31, 2011,
17 a portion of moneys collected under this section may be used to
18 supplant existing funding for these purposes as follows: Up to fifty
19 percent may be used to supplant existing funding for up to the first
20 three calendar years following adoption; and up to twenty-five percent
21 may be used to supplant existing funding for the fourth and fifth years
22 after adoption;

23 (c) For a county with a population of less than twenty-five
24 thousand, a portion of moneys collected under this section may be used
25 to supplant existing funding for these purposes as follows: Up to
26 eighty percent may be used to supplant existing funding in calendar
27 years 2011-2012; up to sixty percent may be used to supplant existing
28 funding in calendar year 2013; up to forty percent may be used to
29 supplant existing funding in calendar year 2014; up to twenty percent
30 may be used to supplant existing funding in calendar year 2015; and up
31 to ten percent may be used to supplant existing funding in calendar
32 year 2016; and

33 (d) Notwithstanding (a) through (c) of this subsection, moneys
34 collected under this section may be used to support the cost of the
35 judicial officer and support staff of a therapeutic court.

36 (5) Nothing in this section may be interpreted to prohibit the use
37 of moneys collected under this section for the replacement of lapsed

1 federal funding previously provided for the operation or delivery of
2 services and programs as provided in this section.

3 NEW SECTION. **Sec. 6.** Individual trial courts are authorized and
4 encouraged to establish multijurisdictional partnerships and/or
5 interlocal agreements under RCW 39.34.180 to enhance and expand the
6 coverage area of the therapeutic court. Specifically, district and
7 municipal courts may work cooperatively with each other and with the
8 superior courts to identify and implement nontraditional case
9 processing methods which can eliminate traditional barriers that
10 decrease judicial efficiency.

11 NEW SECTION. **Sec. 7.** Any therapeutic court meeting the definition
12 of therapeutic court in section 2 of this act and existing on the
13 effective date of this section continues to be authorized.

14 **Sec. 8.** RCW 9.94A.517 and 2013 2nd sp.s. c 14 s 1 are each amended
15 to read as follows:

16 (1)

17 TABLE 3

18 DRUG OFFENSE SENTENCING GRID

19	Seriousness	Offender Score	Offender Score	Offender Score
20	Level	0 to 2	3 to 5	6 to 9 or more
21	III	51 to 68 months	68+ to 100 months	100+ to 120 months
22	II	12+ to 20 months	20+ to 60 months	60+ to 120 months
23	I	0 to 6 months	6+ to 12 months	12+ to 24 months

24 References to months represent the standard sentence ranges. 12+equals
25 one year and one day.

26 (2) The court may utilize any other sanctions or alternatives as
27 authorized by law, including but not limited to the special drug
28 offender sentencing alternative under RCW 9.94A.660 or drug court under
29 (~~RCW 2.28.170~~) chapter 2.--- RCW (the new chapter created in section
30 12 of this act).

31 (3) Nothing in this section creates an entitlement for a criminal
32 defendant to any specific sanction, alternative, sentence option, or
33 substance abuse treatment.

1 **Sec. 9.** RCW 9.94A.517 and 2002 c 290 s 8 are each amended to read
2 as follows:

3 (1)

4 TABLE 3

5 DRUG OFFENSE SENTENCING GRID

	Seriousness	Offender Score	Offender Score	Offender Score
	Level	0 to 2	3 to 5	6 to 9 or more
6	III	51 to 68 months	68+ to 100 months	100+ to 120 months
7	II	12+ to 20 months	20+ to 60 months	60+ to 120 months
8	I	0 to 6 months	6+ to 18 months	12+ to 24 months

11 References to months represent the standard sentence ranges. 12+
12 equals one year and one day.

13 (2) The court may utilize any other sanctions or alternatives as
14 authorized by law, including but not limited to the special drug
15 offender sentencing alternative under RCW 9.94A.660 or drug court under
16 (~~(RCW 2.28.170)~~) chapter 2.--- RCW (the new chapter created in section
17 12 of this act).

18 (3) Nothing in this section creates an entitlement for a criminal
19 defendant to any specific sanction, alternative, sentence option, or
20 substance abuse treatment.

21 **Sec. 10.** RCW 70.96A.350 and 2013 2nd sp.s. c 4 s 990 are each
22 amended to read as follows:

23 (1) The criminal justice treatment account is created in the state
24 treasury. Moneys in the account may be expended solely for: (a)
25 Substance abuse treatment and treatment support services for offenders
26 with an addiction or a substance abuse problem that, if not treated,
27 would result in addiction, against whom charges are filed by a
28 prosecuting attorney in Washington state; (b) the provision of drug and
29 alcohol treatment services and treatment support services for
30 nonviolent offenders within a drug court program; (c) the
31 administrative and overhead costs associated with the operation of a
32 drug court; and (d) during the 2011-2013 biennium, the legislature may
33 appropriate up to three million dollars from the account in order to
34 offset reductions in the state general fund for treatment services
35 provided by counties. This amount is not subject to the requirements

1 of subsections (5) through (9) of this section. During the 2013-2015
2 fiscal biennium, the legislature may transfer from the criminal justice
3 treatment account to the state general fund amounts as reflect the
4 state savings associated with the implementation of the medicaid
5 expansion of the federal affordable care act. Moneys in the account
6 may be spent only after appropriation.

7 (2) For purposes of this section:

8 (a) "Treatment" means services that are critical to a participant's
9 successful completion of his or her substance abuse treatment program,
10 but does not include the following services: Housing other than that
11 provided as part of an inpatient substance abuse treatment program,
12 vocational training, and mental health counseling; and

13 (b) "Treatment support" means transportation to or from inpatient
14 or outpatient treatment services when no viable alternative exists, and
15 child care services that are necessary to ensure a participant's
16 ability to attend outpatient treatment sessions.

17 (3) Revenues to the criminal justice treatment account consist of:

18 (a) Funds transferred to the account pursuant to this section; and (b)
19 any other revenues appropriated to or deposited in the account.

20 (4)(a) For the fiscal biennium beginning July 1, 2003, the state
21 treasurer shall transfer eight million nine hundred fifty thousand
22 dollars from the general fund into the criminal justice treatment
23 account, divided into eight equal quarterly payments. For the fiscal
24 year beginning July 1, 2005, and each subsequent fiscal year, the state
25 treasurer shall transfer eight million two hundred fifty thousand
26 dollars from the general fund to the criminal justice treatment
27 account, divided into four equal quarterly payments. For the fiscal
28 year beginning July 1, 2006, and each subsequent fiscal year, the
29 amount transferred shall be increased on an annual basis by the
30 implicit price deflator as published by the federal bureau of labor
31 statistics.

32 (b) In each odd-numbered year, the legislature shall appropriate
33 the amount transferred to the criminal justice treatment account in (a)
34 of this subsection to the division of alcohol and substance abuse for
35 the purposes of subsection (5) of this section.

36 (5) Moneys appropriated to the division of alcohol and substance
37 abuse from the criminal justice treatment account shall be distributed
38 as specified in this subsection. The department shall serve as the

1 fiscal agent for purposes of distribution. Until July 1, 2004, the
2 department may not use moneys appropriated from the criminal justice
3 treatment account for administrative expenses and shall distribute all
4 amounts appropriated under subsection (4)(b) of this section in
5 accordance with this subsection. Beginning in July 1, 2004, the
6 department may retain up to three percent of the amount appropriated
7 under subsection (4)(b) of this section for its administrative costs.

8 (a) Seventy percent of amounts appropriated to the division from
9 the account shall be distributed to counties pursuant to the
10 distribution formula adopted under this section. The division of
11 alcohol and substance abuse, in consultation with the department of
12 corrections, the Washington state association of counties, the
13 Washington state association of drug court professionals, the superior
14 court judges' association, the Washington association of prosecuting
15 attorneys, representatives of the criminal defense bar, representatives
16 of substance abuse treatment providers, and any other person deemed by
17 the division to be necessary, shall establish a fair and reasonable
18 methodology for distribution to counties of moneys in the criminal
19 justice treatment account. County or regional plans submitted for the
20 expenditure of formula funds must be approved by the panel established
21 in (b) of this subsection.

22 (b) Thirty percent of the amounts appropriated to the division from
23 the account shall be distributed as grants for purposes of treating
24 offenders against whom charges are filed by a county prosecuting
25 attorney. The division shall appoint a panel of representatives from
26 the Washington association of prosecuting attorneys, the Washington
27 association of sheriffs and police chiefs, the superior court judges'
28 association, the Washington state association of counties, the
29 Washington defender's association or the Washington association of
30 criminal defense lawyers, the department of corrections, the Washington
31 state association of drug court professionals, substance abuse
32 treatment providers, and the division. The panel shall review county
33 or regional plans for funding under (a) of this subsection and grants
34 approved under this subsection. The panel shall attempt to ensure that
35 treatment as funded by the grants is available to offenders statewide.

36 (6) The county alcohol and drug coordinator, county prosecutor,
37 county sheriff, county superior court, a substance abuse treatment
38 provider appointed by the county legislative authority, a member of the

1 criminal defense bar appointed by the county legislative authority,
2 and, in counties with a drug court, a representative of the drug court
3 shall jointly submit a plan, approved by the county legislative
4 authority or authorities, to the panel established in subsection (5)(b)
5 of this section, for disposition of all the funds provided from the
6 criminal justice treatment account within that county. The funds shall
7 be used solely to provide approved alcohol and substance abuse
8 treatment pursuant to RCW 70.96A.090, treatment support services, and
9 for the administrative and overhead costs associated with the operation
10 of a drug court.

11 (a) No more than ten percent of the total moneys received under
12 subsections (4) and (5) of this section by a county or group of
13 counties participating in a regional agreement shall be spent on the
14 administrative and overhead costs associated with the operation of a
15 drug court.

16 (b) No more than ten percent of the total moneys received under
17 subsections (4) and (5) of this section by a county or group of
18 counties participating in a regional agreement shall be spent for
19 treatment support services.

20 (7) Counties are encouraged to consider regional agreements and
21 submit regional plans for the efficient delivery of treatment under
22 this section.

23 (8) Moneys allocated under this section shall be used to
24 supplement, not supplant, other federal, state, and local funds used
25 for substance abuse treatment.

26 (9) Counties must meet the criteria established in ((RCW
27 ~~2.28.170(3)(b)~~) section 3(3) of this act.

28 (10) The authority under this section to use funds from the
29 criminal justice treatment account for the administrative and overhead
30 costs associated with the operation of a drug court expires June 30,
31 2015.

32 NEW SECTION. **Sec. 11.** The following acts or parts of acts are
33 each repealed:

34 (1) RCW 2.28.170 (Drug courts) and 2013 2nd sp.s. c 4 s 952, 2013
35 2nd sp.s. c 4 s 951, 2013 c 257 s 5, 2009 c 445 s 2, 2006 c 339 s 106,
36 2005 c 504 s 504, 2002 c 290 s 13, & 1999 c 197 s 9;

1 (2) RCW 2.28.175 (DUI courts) and 2013 2nd sp.s. c 35 s 2, 2013 c
2 257 s 6, 2012 c 183 s 1, & 2011 c 293 s 10;

3 (3) RCW 2.28.180 (Mental health courts) and 2013 c 257 s 7, 2011 c
4 236 s 1, & 2005 c 504 s 501;

5 (4) RCW 2.28.190 (DUI court, drug court, and mental health court
6 may be combined) and 2013 c 257 s 8, 2011 c 293 s 11, & 2005 c 504 s
7 502;

8 (5) RCW 13.40.700 (Juvenile gang courts--Minimum requirements--
9 Admission--Individualized plan--Completion) and 2012 c 146 s 2;

10 (6) RCW 13.40.710 (Juvenile gang courts--Data--Reports) and 2012 c
11 146 s 3;

12 (7) RCW 26.12.250 (Therapeutic courts) and 2005 c 504 s 503;

13 (8) RCW 2.28.165 (Specialty and therapeutic courts--Establishment--
14 Principles of best practices--Limitations) and 2013 c 257 s 2; and

15 (9) RCW 2.28.166 (Definition of "specialty court" and "therapeutic
16 court") and 2013 c 257 s 4.

17 NEW SECTION. **Sec. 12.** Sections 1 through 4, 6, and 7 of this act
18 constitute a new chapter in Title 2 RCW.

19 NEW SECTION. **Sec. 13.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 14.** If any part of this act is found to be in
24 conflict with federal requirements that are a prescribed condition to
25 the allocation of federal funds to the state, the conflicting part of
26 this act is inoperative solely to the extent of the conflict and with
27 respect to the agencies directly affected, and this finding does not
28 affect the operation of the remainder of this act in its application to
29 the agencies concerned. Rules adopted under this act must meet federal
30 requirements that are a necessary condition to the receipt of federal
31 funds by the state.

32 NEW SECTION. **Sec. 15.** Section 8 of this act expires July 1, 2018.

1 NEW SECTION. **Sec. 16.** Section 9 of this act takes effect July 1,
2 2018.

--- END ---