

HOUSE BILL REPORT

HB 2055

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to the creation of a gambling treatment diversion court pilot program to be conducted by the administrative office of the courts.

Brief Description: Creating a gambling treatment diversion court pilot program to be conducted by the administrative office of the courts.

Sponsors: Representatives Stearns, Orwall, Ramel, Simmons, Reed, Ormsby, Goodman, Doglio, Reeves and Davis.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/24/24, 1/30/24 [DPS].

Brief Summary of Substitute Bill

- Requires the Administrative Office of the Courts to conduct a gambling treatment diversion pilot program in a superior court to allow for deferred sentencing and treatment of persons found to be affected by an addictive disorder related to gambling.
- Establishes eligibility standards and requirements for the treatment program and allows the court to discharge a conviction upon a person completing the diversion treatment program.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Taylor, Chair; Farivar, Vice Chair; Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno, Cheney, Entenman, Goodman, Peterson, Thai and Walen.

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

Staff: Matt Sterling (786-7289).

Background:

Therapeutic Courts.

Every trial and juvenile court in Washington is authorized to establish and operate therapeutic courts to process cases in ways that depart from traditional judicial processes. The therapeutic courts that are authorized, which include gambling courts, are encouraged to allow defendants or respondents the opportunity to obtain treatment services to address particular issues that may have contributed to the conduct that led to their arrest in exchange for resolution of the case or charges. In criminal cases, the consent of the prosecutor is required.

A therapeutic court judge retains the discretion to decline to accept a case into the therapeutic court and retains discretion to establish processes and determine eligibility for admission to the therapeutic court process unique to their community and jurisdiction. The trial court must regularly assess the effectiveness of its program and the methods by which it implements and adopts new best practices for therapeutic courts.

Discharge and Vacation of Convictions.

When an individual under the custody of the Department of Corrections (DOC) has completed all the requirements of a criminal sentence, including any and all legal financial obligations, the Secretary or the Secretary's designee must notify the sentencing court and the court must discharge the offender and provide the offender with a certificate of discharge. Every offender who has been discharged may apply to the sentencing court for a vacation of the offender's record of conviction. If the court finds the offender meets the requirements, the court may clear the record of conviction by:

- permitting the offender to withdraw the offender's plea of guilty and to enter a plea of not guilty or setting aside the verdict of guilty; and
- the court dismissing the information or indictment against the offender.

An offender may not have the record of conviction cleared if:

- there are any criminal charges against the offender pending in any court;
- the offense was a violent offense or certain crimes against persons; or
- the offense is a felony and the offender has been convicted of a new crime within a certain period of time prior to the application for vacation.

Summary of Substitute Bill:

Gambling Treatment Diversion Court Pilot Program.

The Administrative Office of the Courts (AOC) must conduct a gambling treatment diversion court pilot program to treat persons with an addictive disorder related to gambling who commit a crime in furtherance or as a result of gambling. The pilot program is

established in a superior court and the program must be accessible by July 1, 2026. The treatment program requires that the person assigned to the program agree to pay restitution in a manner and within a period of time determined by the court for the person to be eligible to participate in the program.

The treatment program is administered by a qualified mental health or substance use disorder professional (treatment professional) and includes:

- information and encouragement for the participant to cease problem gambling through educational, counseling, and support sessions;
- the opportunity for the participant to understand the medical, psychological, social, and financial implications of problem gambling; and
- appropriate referral to community, health, substance abuse, religious, and social service agencies for additional resources and related services.

Program Eligibility.

If a court has reason to believe that a person who has pled guilty or has been convicted of a crime is afflicted with problem gambling or disordered gambling and the person committed the crime in furtherance of or because of problem gambling or disordered gambling, the court must hold a hearing before it sentences the person to determine whether or not the person committed the crime in furtherance or as a result of problem gambling or disordered gambling and whether or not the person should receive treatment under the supervision of a treatment professional.

At the hearing, the court must advise the person that sentencing will be postponed if the person submits to treatment and is accepted into a program for the treatment of problem gambling or disordered gambling. The court must advise the person that the court may impose any conditions upon the treatment that could be imposed as conditions of probation and the person may be placed under the supervision or care of a treatment professional for a period of at least one year or until the court determines that the person has successfully completed the treatment program.

If the court determines that a person is eligible for the treatment program, the court must order a treatment professional to conduct an examination of the person to determine whether the person:

- has a problem gambling disorder;
- committed the crime in furtherance or as a result of problem gambling; and
- is likely to be rehabilitated through treatment.

The treatment professional must report to the court the results of the examination and recommend whether the person should be placed under supervision for treatment. After receiving the report, if the court determines that the person is not eligible or would not benefit from the treatment program then the person must be sentenced. If the court determines that the person meets the requirements of the treatment program and is a good candidate for treatment, the court may:

- impose any conditions that may be imposed as conditions of probation;
- defer sentencing until sentencing is authorized; and
- place the person under the supervision or care of a treatment professional for not less than one year and not more than three years.

Disqualification from Program.

A person who is afflicted with problem gambling or disordered gambling and who has pled guilty to or been convicted of a crime and who committed the crime in furtherance or as a result of problem gambling or a gambling disorder is eligible to be assigned by the court to a program for the treatment of problem gambling or disordered gambling before the person is sentenced unless:

- the crime is a crime against persons, a crime against a child, or domestic violence;
- the person has a record of two or more convictions of certain crimes or has pending proceedings that allege the commission of a violent offense;
- the person is on probation or parole, unless the person is determined to be eligible by the court; or
- the person has previously been assigned by a court to a program for the treatment of problem gambling or disordered gambling.

Procedures During the Treatment Program.

When a person is under the supervision of a treatment professional, the professional must promptly report to the DOC or other appropriate agency all significant failures by the person to comply with any court-imposed term or condition. A person who is placed under the supervision or care of a treatment professional must pay the cost of the program of treatment to which the person is assigned and the cost of any additional supervision that may be required. If the person placed under supervision does not have the financial resources to pay all of the related costs the court must arrange for the person to be assigned to a program that receives a sufficient amount of federal or state funding to offset the remainder of the costs and may order the person to perform supervised community service in lieu of paying the remainder of the costs.

Whenever a person is placed under the supervision or care of a treatment professional, sentencing must be deferred. During the treatment period, if the treatment professional determines that the person is not likely to benefit from further treatment, the professional must inform the court. The court must then either arrange for a transfer to a more suitable treatment program or terminate the supervision and conduct a hearing to determine whether to sentence the person.

Discharge and Vacation of Convictions.

A person participating in the program must have the person's conviction set aside if the treatment professional certifies to the court that the person has satisfactorily completed the treatment program and the court approves the certification and determines that the conditions imposed for treatment have been satisfied. If the treatment professional has not certified that the person has completed the program of treatment prior to the expiration of

the treatment period, the court must sentence the person unless the treatment professional determines that the person will benefit from further treatment and the treatment professional requests that the court extend the treatment period beyond three years.

A person that satisfactorily completes the treatment program may have their conviction discharged and then may apply to the court for a vacation of the offender's record of conviction. If the person does not satisfactorily complete treatment and satisfy the conditions, the court may impose a sentence for the offense for which the person pled guilty or was convicted.

Substitute Bill Compared to Original Bill:

The substitute bill changes the requirements of the gambling treatment diversion court pilot program by:

- reducing the number of courts participating in the program from three to one;
- requiring that the court that the program is established in is a superior court;
- providing that the program must be available for participants by July 1, 2026; and
- eliminating the provision authorizing the Washington Supreme Court to adopt rules for the program.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 30, 2024.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In the Navajo Tribe, there is a story and religious belief about the gambler who ends up causing lots of harm to people. He wins away human beings and things that people and the animals need. Eventually the holy people are able to beat him at his own game, but realize that he will probably get some of his gambling powers back, so the gambler is placed into the sky. It is an important part of the Tribe's beliefs about the power and risks that come with gambling. It is important that we help people to get treatment instead of languishing in prison and that is the goal of this bill. The bill is modeled after a successful program in Nevada and would be the second statewide court program. It is for people who have committed financial crimes and to get them into treatment and recovery instead of prison. The need in Washington for gambling treatment is pretty high. The Legislature ordered a prevalence study that showed that about 90,000 people in Washington have moderate to elevated risk of problem gambling and could benefit from treatment. The Gambling Commission (Commission) is in support of the bill. The Commission supports efforts to address individuals who may have issues with gambling. The Commission

supported the creation of the Joint Legislative Problem Gambling Task Force (Task Force), which was created to address concerns about the growing impact of gambling on Washington residents. The Task Force assessed the need for problem gambling services and whether the state was addressing those needs and made recommendations to the Legislature on improvements. One of the recommendations from the Task Force was to develop a gambling treatment diversion program in the state courts.

(Opposed) None.

Persons Testifying: Representative Chris Stearns, prime sponsor; and Tina Griffin, Washington State Gambling Commission.

Persons Signed In To Testify But Not Testifying: None.