
SENATE BILL 5338

State of Washington 53rd Legislature 1993 Regular Session

By Senators A. Smith, Quigley, McCaslin, Winsley and M. Rasmussen

Read first time 01/25/93. Referred to Committee on Law & Justice.

1 AN ACT Relating to court-referred treatment programs; amending RCW
2 10.05.090; and adding a new section to chapter 46.61 RCW.

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

4 **Sec. 1.** RCW 10.05.090 and 1985 c 352 s 12 are each amended to read
5 as follows:

6 If a petitioner, who has been accepted for a deferred prosecution,
7 fails or neglects to carry out and fulfill any term or condition of the
8 petitioner's treatment plan, the facility, center, institution, or
9 agency administering the treatment shall immediately report such breach
10 to the court, the prosecutor, and the petitioner or petitioner's
11 attorney of record, together with its recommendation. The court upon
12 receiving such a report shall hold a hearing to determine whether the
13 petitioner should be removed from the deferred prosecution program. At
14 the hearing, evidence shall be taken of the petitioner's alleged
15 failure to comply with the treatment plan and the petitioner shall have
16 the ~~((right to present evidence on his or her own behalf))~~ burden of
17 showing by clear and convincing evidence that he or she should not be
18 removed from deferred prosecution and that the alleged failure to
19 comply with the treatment plan was due to circumstances beyond the

1 control of the petitioner or did not involve a lack of commitment or
2 cooperation with the treatment plan. The court shall either order that
3 the petitioner continue on the treatment plan or be removed from
4 deferred prosecution. If removed from deferred prosecution, the court
5 shall enter judgment pursuant to RCW 10.05.020.

6 NEW SECTION. Sec. 2. A new section is added to chapter 46.61 RCW
7 to read as follows:

8 No alcoholism agency or treatment program approved by the
9 department of social and health services or any such agencies or
10 facilities owned by the same person or corporation shall provide an
11 assessment or a diagnostic evaluation of an individual that is required
12 by a court in connection with an alcohol-related offense and provide
13 treatment to that same individual. The department of social and health
14 services shall adopt rules to implement this section including the
15 prohibition of collusion between agencies or treatment programs
16 regarding referral of patients.

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