

SB 5797 - H COMM AMD  
By Committee on Judiciary

ADOPTED AND ENGROSSED 4/12/13

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) No therapeutic or specialty court may be established  
31 specifically for the purpose of applying foreign law, including foreign  
32 criminal, civil, or religious law, that is otherwise not required by  
33 treaty.

34 (5) Specialty and therapeutic courts shall continue to: (a) Obtain  
35 the consent of the prosecuting authority in order to remove a charged  
36 offender from the regular course of prosecution and punishment; and (b)  
37 comply with sentencing requirements as established in state law.

1 (6) No specialty or therapeutic court established by court rule  
2 shall enforce a foreign law, if doing so would violate a right  
3 guaranteed by the Constitution of this state or of the United States.

4 NEW SECTION. **Sec. 3.** The superior court judges' association and  
5 the district and municipal court judges' association are encouraged to  
6 invite other appropriate organizations and convene a work group to  
7 examine the structure of all specialty and therapeutic courts in  
8 Washington. If such a work group is convened, the legislature requests  
9 a recommendation for the structure for such courts in the law and court  
10 rules, incorporating principles of best practices relative to a  
11 particular court as recognized by state and national treatment court  
12 agencies and organizations, to make such courts more effective and more  
13 prevalent throughout the state. The legislature requests such  
14 recommendations prior to the beginning of the 2014 legislative session,  
15 and respectfully requests the supreme court to consider any  
16 recommendations from the work group pertaining to necessary changes in  
17 court rules.

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

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

24 (1) (~~Counties~~) Jurisdictions may establish and operate drug  
25 courts.

26 (2) For the purposes of this section, "drug court" means a court  
27 that has special calendars or dockets designed to achieve a reduction  
28 in recidivism and substance abuse among nonviolent, substance abusing  
29 felony and nonfelony offenders, whether adult or juvenile, by  
30 increasing their likelihood for successful rehabilitation through  
31 early, continuous, and intense judicially supervised treatment;  
32 mandatory periodic drug testing; 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 drug court program must first:

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

3 (ii) Match, on a dollar-for-dollar basis, state moneys allocated  
4 for drug court programs with local cash or in-kind resources. Moneys  
5 allocated by the state must be used to supplement, not supplant, other  
6 federal, state, and local funds for drug court operations and  
7 associated services. However, from July 26, 2009, until June 30, 2013,  
8 no match is required for state moneys expended for the administrative  
9 and overhead costs associated with the operation of a drug court  
10 pursuant to RCW 70.96A.350.

11 (b) Any (~~county~~) jurisdiction that establishes a drug court  
12 pursuant to this section shall establish minimum requirements for the  
13 participation of offenders in the program. The drug court may adopt  
14 local requirements that are more stringent than the minimum. The  
15 minimum requirements are:

16 (i) The offender would benefit from substance abuse treatment;

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

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

22 (A) That is a sex offense;

23 (B) That is a serious violent offense;

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

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

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

29 (1) (~~Counties~~) Jurisdictions may establish and operate DUI  
30 courts. Municipalities may enter into cooperative agreements with  
31 counties or other municipalities that have DUI courts to provide DUI  
32 court services.

33 (2) For the purposes of this section, "DUI court" means a court  
34 that has special calendars or dockets designed to achieve a reduction  
35 in recidivism of impaired driving among nonviolent, alcohol abusing  
36 offenders, whether adult or juvenile, by increasing their likelihood  
37 for successful rehabilitation through early, continuous, and intense

1 judicially supervised treatment; mandatory periodic testing for alcohol  
2 use and, if applicable, drug use; and the use of appropriate sanctions  
3 and other rehabilitation services.

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

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

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

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

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

21 (ii) The offender has not previously been convicted of a serious  
22 violent offense or sex offense as defined in RCW 9.94A.030, vehicular  
23 homicide under RCW 46.61.520, vehicular assault under RCW 46.61.522, or  
24 an equivalent out-of-state offense; 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) That is vehicular homicide or vehicular assault;

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

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

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

36 (1) (~~Counties~~) Jurisdictions may establish and operate mental  
37 health courts.

1 (2) For the purposes of this section, "mental health court" means  
2 a court that has special calendars or dockets designed to achieve a  
3 reduction in recidivism and symptoms of mental illness among  
4 nonviolent, felony and nonfelony offenders with mental illnesses and  
5 recidivism among nonviolent felony and nonfelony offenders who have  
6 developmental disabilities as defined in RCW 71A.10.020 or who have  
7 suffered a traumatic brain injury by increasing their likelihood for  
8 successful rehabilitation through early, continuous, and intense  
9 judicially supervised treatment including drug treatment for persons  
10 with co-occurring disorders; mandatory periodic reviews, including drug  
11 testing if indicated; and the use of appropriate sanctions and other  
12 rehabilitation services.

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

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

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

22 (b) Any (~~county~~) jurisdiction that establishes a mental health  
23 court pursuant to this section shall establish minimum requirements for  
24 the participation of offenders in the program. The mental health court  
25 may adopt local requirements that are more stringent than the minimum.  
26 The minimum requirements are:

27 (i) The offender would benefit from psychiatric treatment or  
28 treatment related to his or her developmental disability or traumatic  
29 brain injury;

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

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

35 (A) That is a sex offense;

36 (B) That is a serious violent offense;

37 (C) During which the defendant used a firearm; or

1 (D) During which the defendant caused substantial or great bodily  
2 harm or death to another person.

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

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

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

9 Correct the title.

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