

# SENATE BILL REPORT

## ESHB 2556

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As of February 27, 2014

**Title:** An act relating to authorizing, funding, and encouraging the establishment of therapeutic courts.

**Brief Description:** Encouraging the establishment of therapeutic courts.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Freeman, Rodne, Kagi and Pollet).

**Brief History:** Passed House: 2/17/14, 95-1.

**Committee Activity:** Law & Justice: 2/26/14.

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### SENATE COMMITTEE ON LAW & JUSTICE

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

**Background:** Many courts in Washington have specially designed court calendars or dockets that provide an alternative to traditional court processes in particular kinds of cases. Often called problem-solving courts or therapeutic courts, these alternative courts commonly require intense, judicially supervised treatment with the goal of reducing recidivism. Participation in an alternative court program is voluntary and only open to specific defendants or respondents who fit qualifying criteria. There is typically an advantageous result for completion of the program, such as dismissal of the underlying charges.

Although there are a wide variety of therapeutic courts in operation throughout the state, the requirements for certain courts are outlined in statute, including drug courts, driving under the influence (DUI) courts, mental health courts, and juvenile gang courts. The statutes describing these courts contain similar minimum requirements for participation.

While there is some variation, a defendant is generally ineligible to participate in a therapeutic court if the defendant is currently charged with or convicted of a sex offense, serious violent offense, an offense involving a firearm, or a crime during which the defendant caused a person's death or inflicted great bodily injury. In addition, the statutes contain common funding language, requiring that any jurisdiction seeking state funding for therapeutic court must first exhaust available federal funding and match allocated state monies with local cash or in-kind resources.

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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.*

In 2013 the Legislature encouraged the establishment of effective specialty and therapeutic courts and recommended guidelines for operating such courts. That legislation also included a requirement that any jurisdiction establishing a specialty or therapeutic court endeavor to incorporate certain treatment court principles and best practices as recognized by state and national treatment court agencies and organizations in structuring a particular program. Additionally, the Superior Court Judges' Association and the District and Municipal Court Judges' Association were encouraged to invite other appropriate organizations and convene a workgroup to examine and make recommendations regarding the structure of all specialty and therapeutic courts in Washington. The two associations created the workgroup and issued a report including recommended legislation.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Amendment):** Current statutes regarding therapeutic courts are repealed, including the sections governing drug courts, DUI courts, mental health courts, and juvenile gang courts, among others, as well as most of the sections codified pursuant to Senate Bill 5797 (2013). Most of the provisions of the repealed sections are consolidated and reincorporated into a new chapter. Miscellaneous other sections of repealed statutes are reincorporated into different sections of the RCW.

The Legislature recognizes the inherent authority of the judicial branch to establish therapeutic courts and the utility of such courts, and cites specific examples of different types of therapeutic court programs. Therapeutic court and specialty court are both defined as a court utilizing programming structured to reduce recidivism or other adverse outcomes, and increase rehabilitation through the use of continuous and intense judicially supervised treatment and the appropriate use of services, sanctions, and incentives.

Every trial and juvenile court is authorized and encouraged to establish and operate therapeutic courts. Jurisdictions establishing therapeutic courts must endeavor to incorporate a list of best practices largely mirroring those appearing in current law. Promising practices, emerging best practices, and research-based practices, as defined in the act, are authorized where determined by the court to be appropriate. Restrictions are placed on the ability of therapeutic courts to enforce or apply foreign law. Currently operating therapeutic courts continue to be authorized.

Defendants or respondents must consent to participation in a therapeutic court, and, in criminal cases, the consent of the prosecutor is also required. Therapeutic courts retain the discretion to establish processes for eligibility and admission, and therapeutic court judges retain the discretion to decline to accept a particular case into the court. Except under special findings by the court, defendants are ineligible for participation in a therapeutic court if they are:

- charged with or have been previously convicted of a serious violent offense or sex offense;
- charged with an offense involving actual, threatened, or attempted discharge of a firearm in furtherance of the offense;
- charged with or have been previously convicted of vehicular homicide; or
- charged with or have been previously convicted of an offense alleging substantial bodily harm, great bodily harm, or death of another person.

Jurisdictions may seek federal funding and must match appropriated state funds with local cash or in-kind resources. Monies allocated by the state may be used to supplement, not to supplant other federal, state, or local funds for therapeutic courts. Until June 30, 2015, no match is required for state monies expended for administrative and overhead costs.

Any jurisdiction that has established more than one therapeutic court may combine the functions of those courts into a single therapeutic court. Individual trial courts are authorized and encouraged to establish multi-jurisdictional partnerships, inter-local agreements, or both, to enhance or expand the coverage area of a therapeutic court.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Effective Date:** Ninety days after adjournment of session in which bill is passed, except for section 9 amending a cross reference in the drug offense sentencing grid which takes effect July 1, 2018.

**Staff Summary of Public Testimony:** PRO: The groups that the Legislature asked to work together did so and drafted this legislation as requested. This is the product of that process. The group looked at 20 states and conferred with many stakeholders. It was decided that consolidation of the provisions in a single chapter would be the most helpful.

**Persons Testifying:** PRO: Representative Freeman, prime sponsor; Michael Finkle, District and Municipal Court Judges Assn.