

# HOUSE BILL REPORT

## ESHB 2556

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**As Passed House:**  
February 17, 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:**

**Committee Activity:**

Judiciary: 1/31/14, 2/5/14 [DPS].

**Floor Activity:**

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

**Brief Summary of Engrossed Substitute Bill**

- Repeals and reorganizes statutes pertaining to therapeutic courts.
- Creates a new chapter outlining suggested eligibility requirements, court structure, funding requirements, and other matters concerning therapeutic courts.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Jinkins, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; Nealey, Assistant Ranking Minority Member; Goodman, Haler, Kirby, Klippert, Muri, Orwall, Roberts and Walkinshaw.

**Minority Report:** Do not pass. Signed by 1 member: Representative Shea.

**Staff:** Omeara Harrington (786-7136).

**Background:**

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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.*

### Therapeutic Courts.

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 he or she 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 moneys with local cash or in-kind resources.

### Senate Bill 5797 (2013).

Legislation enacted in 2013 (Senate Bill 5797) 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 work group to examine and make recommendations regarding the structure of all specialty and therapeutic courts in Washington.

### **Summary of Engrossed Substitute Bill:**

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 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 new chapter contains provisions addressing the following:

*Intent and Findings.* Intent language and legislative findings are included, recognizing the inherent authority of the judicial branch to establish therapeutic courts and the utility of such courts, and citing the examples of different types of therapeutic court programs.

*Definitions.* "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. Other terminology used in the act is also defined.

*Structure.* 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.

*Eligibility.* 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.

*Funding.* Therapeutic courts must exhaust available federal funding prior to seeking state funding and must match appropriated state funds with local cash or in-kind resources.

*Combining Therapeutic Court Services.* 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.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the 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:**

(In support) This is the product of a work group made up of judges of all levels, prosecutors, defense attorneys, and subject matter experts from all parts of the state. The group studied other states and created an omnibus chapter so that, when establishing a therapeutic court, there will be just one chapter to refer to. This proposal provides guidelines, but allows for flexibility so a jurisdiction can pick the kind of court that best suits its needs. There are also general eligibility standards provided, but courts have discretion to deviate from them in an individual case. All of the tax provisions already exist in the code and are being relocated, so there is no monetary impact.

The intent of this legislation, in part, is to explicitly authorize cross-jurisdictional participation. Smaller jurisdictions may enter into inter-local agreements to provide access to therapeutic courts. It is beneficial to have the option to send a defendant or respondent to a therapeutic court closest to where they live.

(Opposed) None.

**Persons Testifying:** Representative Freeman, prime sponsor; Gregory Canova, King County Superior Court, Superior Court Judges' Association; Mike Finkle, King County District Court; Paul Strophy, Washington Association of Criminal Defense Lawyers, Washington Defender Association; and Richard Strophy.

**Persons Signed In To Testify But Not Testifying:** None.