

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5797**

Chapter 257, Laws of 2013

63rd Legislature  
2013 Regular Session

COURTS--SPECIALTY AND THERAPEUTIC

EFFECTIVE DATE: 08/01/13

Passed by the Senate April 25, 2013  
YEAS 47 NAYS 0

BRAD OWEN

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**President of the Senate**

Passed by the House April 12, 2013  
YEAS 94 NAYS 1

FRANK CHOPP

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**Speaker of the House of Representatives**

Approved May 15, 2013, 1:59 p.m.

JAY INSLEE

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**Governor of the State of Washington**

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5797** as passed by the Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

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**Secretary**

FILED

May 16, 2013

**Secretary of State  
State of Washington**

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**SENATE BILL 5797**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2013 Regular Session

**State of Washington**                      **63rd Legislature**                      **2013 Regular Session**

**By** Senators Hobbs and Padden

Read first time 02/15/13. Referred to Committee on Law & Justice.

1            AN ACT Relating to specialty courts; amending RCW 2.28.170,  
2 2.28.175, 2.28.180, and 2.28.190; adding a new section to chapter 2.28  
3 RCW; creating new sections; and providing an effective date.

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

5            NEW SECTION.    **Sec. 1.** The legislature finds that in the state of  
6 Washington, there exists a type of court administered by the judiciary  
7 commonly called a specialty or therapeutic court. Judges in the trial  
8 courts throughout the state effectively utilize specialty and  
9 therapeutic courts to remove defendants with their consent and the  
10 consent of the prosecuting authority from the normal criminal court  
11 system and allow those defendants the opportunity to obtain treatment  
12 services to address particular issues that may have contributed to the  
13 conduct that led to their arrest in exchange for dismissal of the  
14 charges. Trial courts have proved adept at creative approaches in  
15 fashioning a wide variety of specialty and therapeutic courts  
16 addressing the spectrum of social issues that can contribute to  
17 criminal activity.

18            The legislature also finds that there are presently more than  
19 seventy-four specialty and therapeutic courts operating in the state of

1 Washington that save costs to both the trial courts and law enforcement  
2 by strategic focus of resources within the criminal justice system.  
3 There are presently more than fifteen types of specialty and  
4 therapeutic courts in the state including: Veterans treatment court,  
5 adult drug court, juvenile drug court, family dependency treatment  
6 court, mental health court, DUI court, community court, reentry drug  
7 court, tribal healing to wellness court, truancy court, homeless court,  
8 domestic violence court, gambling court, and Back on TRAC: Treatment,  
9 responsibility, accountability on campus.

10 The legislature recognizes the inherent authority of the judiciary  
11 under Article IV, section 1 of the state Constitution to establish  
12 specialty and therapeutic courts. The legislature recognizes the  
13 outstanding contribution to the state and a local community made by the  
14 establishment of specialty and therapeutic courts and desires to  
15 provide a general provision in statute acknowledging and encouraging  
16 the judiciary to provide for such courts to address the particular  
17 needs within a given judicial jurisdiction.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 2.28 RCW  
19 to read as follows:

20 (1) The legislature respectfully encourages the supreme court to  
21 adopt any administrative orders and court rules of practice and  
22 procedure it deems necessary to support the establishment of effective  
23 specialty and therapeutic courts.

24 (2) Any jurisdiction may establish a specialty or therapeutic court  
25 under this section and may seek state or federal funding as it becomes  
26 available for the establishment, maintenance, and expansion of  
27 specialty and therapeutic courts and for the provision by participating  
28 agencies of treatment to participating defendants.

29 (3) Any jurisdiction establishing a specialty court shall endeavor  
30 to incorporate the treatment court principles of best practices as  
31 recognized by state and national treatment court agencies and  
32 organizations in structuring a particular program, which may include:

- 33 (a) Determine the population;
- 34 (b) Perform a clinical assessment;
- 35 (c) Develop the treatment plan;
- 36 (d) Supervise the offender;
- 37 (e) Forge agency, organization, and community partnerships;

- 1 (f) Take a judicial leadership role;
- 2 (g) Develop case management strategies;
- 3 (h) Address transportation issues;
- 4 (i) Evaluate the program;
- 5 (j) Ensure a sustainable program.

6 (4) No therapeutic or specialty court may be established  
7 specifically for the purpose of applying foreign law, including foreign  
8 criminal, civil, or religious law, that is otherwise not required by  
9 treaty.

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

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

17 NEW SECTION. **Sec. 3.** The superior court judges' association and  
18 the district and municipal court judges' association are encouraged to  
19 invite other appropriate organizations and convene a work group to  
20 examine the structure of all specialty and therapeutic courts in  
21 Washington. If such a work group is convened, the legislature requests  
22 a recommendation for the structure for such courts in the law and court  
23 rules, incorporating principles of best practices relative to a  
24 particular court as recognized by state and national treatment court  
25 agencies and organizations, to make such courts more effective and more  
26 prevalent throughout the state. The legislature requests such  
27 recommendations prior to the beginning of the 2014 legislative session,  
28 and respectfully requests the supreme court to consider any  
29 recommendations from the work group pertaining to necessary changes in  
30 court rules.

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

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

3       (1) (~~Counties~~) Jurisdictions may establish and operate drug  
4 courts.

5       (2) For the purposes of this section, "drug court" means a court  
6 that has special calendars or dockets designed to achieve a reduction  
7 in recidivism and substance abuse among nonviolent, substance abusing  
8 felony and nonfelony offenders, whether adult or juvenile, by  
9 increasing their likelihood for successful rehabilitation through  
10 early, continuous, and intense judicially supervised treatment;  
11 mandatory periodic drug testing; and the use of appropriate sanctions  
12 and other rehabilitation services.

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

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

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

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

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

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

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

36       (A) That is a sex offense;

37       (B) That is a serious violent offense;

38       (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. 6.** RCW 2.28.175 and 2012 c 183 s 1 are each amended to read  
4 as follows:

5 (1) (~~Counties~~) Jurisdictions may establish and operate DUI  
6 courts. Municipalities may enter into cooperative agreements with  
7 counties or other municipalities that have DUI courts to provide DUI  
8 court services.

9 (2) For the purposes of this section, "DUI court" means a court  
10 that has special calendars or dockets designed to achieve a reduction  
11 in recidivism of impaired driving among nonviolent, alcohol abusing  
12 offenders, whether adult or juvenile, by increasing their likelihood  
13 for successful rehabilitation through early, continuous, and intense  
14 judicially supervised treatment; mandatory periodic testing for alcohol  
15 use and, if applicable, drug use; and the use of appropriate sanctions  
16 and other rehabilitation services.

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

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

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

28 (b) Any jurisdiction that establishes a DUI court pursuant to this  
29 section shall establish minimum requirements for the participation of  
30 offenders in the program. The DUI court may adopt local requirements  
31 that are more stringent than the minimum. The minimum requirements  
32 are:

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

34 (ii) The offender has not previously been convicted of a serious  
35 violent offense or sex offense as defined in RCW 9.94A.030, vehicular  
36 homicide under RCW 46.61.520, vehicular assault under RCW 46.61.522, or  
37 an equivalent out-of-state offense; and

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

4 (A) That is a sex offense;

5 (B) That is a serious violent offense;

6 (C) That is vehicular homicide or vehicular assault;

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

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

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

12 (1) (~~Counties~~) Jurisdictions may establish and operate mental  
13 health courts.

14 (2) For the purposes of this section, "mental health court" means  
15 a court that has special calendars or dockets designed to achieve a  
16 reduction in recidivism and symptoms of mental illness among  
17 nonviolent, felony and nonfelony offenders with mental illnesses and  
18 recidivism among nonviolent felony and nonfelony offenders who have  
19 developmental disabilities as defined in RCW 71A.10.020 or who have  
20 suffered a traumatic brain injury by increasing their likelihood for  
21 successful rehabilitation through early, continuous, and intense  
22 judicially supervised treatment including drug treatment for persons  
23 with co-occurring disorders; mandatory periodic reviews, including drug  
24 testing if indicated; and the use of appropriate sanctions and other  
25 rehabilitation services.

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

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

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

35 (b) Any (~~county~~) jurisdiction that establishes a mental health  
36 court pursuant to this section shall establish minimum requirements for

1 the participation of offenders in the program. The mental health court  
2 may adopt local requirements that are more stringent than the minimum.  
3 The minimum requirements are:

4 (i) The offender would benefit from psychiatric treatment or  
5 treatment related to his or her developmental disability or traumatic  
6 brain injury;

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

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

- 12 (A) That is a sex offense;
- 13 (B) That is a serious violent offense;
- 14 (C) During which the defendant used a firearm; or
- 15 (D) During which the defendant caused substantial or great bodily  
16 harm or death to another person.

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

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

22 NEW SECTION. **Sec. 9.** This act takes effect August 1, 2013.  
Passed by the Senate April 25, 2013.  
Passed by the House April 12, 2013.  
Approved by the Governor May 15, 2013.  
Filed in Office of Secretary of State May 16, 2013.