

SHB 1167 - S COMM AMD  
By Committee on Judiciary

NOT CONSIDERED 05/25/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 2.28 RCW  
4 to read as follows:

5 (1) Counties may establish and operate DUI courts.

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

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

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

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

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

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

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

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

8 (A) That is a sex offense;

9 (B) That is a serious violent offense;

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

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

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

14 (c) An offense dismissed following successful completion of the  
15 requirements of a DUI court established by a county pursuant to this  
16 section shall be considered as a prior offense for the purposes of RCW  
17 46.61.502(6)(a), provided that the defendant has made an admission of  
18 guilt to the DUI.

19 **Sec. 2.** RCW 2.28.190 and 2005 c 504 s 502 are each amended to read  
20 as follows:

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

24 **Sec. 3.** RCW 46.61.5054 and 1995 c 398 s 15 and 1995 c 332 s 13 are  
25 each reenacted and amended to read as follows:

26 (1)(a) In addition to penalties set forth in RCW 46.61.5051 through  
27 46.61.5053 until September 1, 1995, and RCW 46.61.5055 thereafter, a  
28 one hundred (~~twenty-five~~) fifty dollar fee shall be assessed to a  
29 person who is either convicted, sentenced to a lesser charge, or given  
30 deferred prosecution, as a result of an arrest for violating RCW  
31 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for the  
32 purpose of funding the Washington state toxicology laboratory and the  
33 Washington state patrol for grants and activities to increase the  
34 conviction rate and decrease the incidence of persons driving under the  
35 influence of alcohol or drugs.

1 (b) Upon a verified petition by the person assessed the fee, the  
2 court may suspend payment of all or part of the fee if it finds that  
3 the person does not have the ability to pay.

4 (c) When a minor has been adjudicated a juvenile offender for an  
5 offense which, if committed by an adult, would constitute a violation  
6 of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall  
7 assess the ((one)) two hundred ((~~twenty-five~~)) dollar fee under (a) of  
8 this subsection. Upon a verified petition by a minor assessed the fee,  
9 the court may suspend payment of all or part of the fee if it finds  
10 that the minor does not have the ability to pay the fee.

11 (2) The fee assessed under subsection (1) of this section shall be  
12 collected by the clerk of the court and, subject to subsection (4) of  
13 this section, one hundred twenty-five dollars of the fee must be  
14 distributed as follows:

15 (a) Forty percent shall be subject to distribution under RCW  
16 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

17 (b) The remainder of the fee shall be forwarded to the state  
18 treasurer who shall, through June 30, 1997, deposit: Fifty percent in  
19 the death investigations' account to be used solely for funding the  
20 state toxicology laboratory blood or breath testing programs; and fifty  
21 percent in the state patrol highway account to be used solely for  
22 funding activities to increase the conviction rate and decrease the  
23 incidence of persons driving under the influence of alcohol or drugs.  
24 Effective July 1, 1997, the remainder of the fee shall be forwarded to  
25 the state treasurer who shall deposit: Fifteen percent in the death  
26 investigations' account to be used solely for funding the state  
27 toxicology laboratory blood or breath testing programs; and eighty-five  
28 percent in the state patrol highway account to be used solely for  
29 funding activities to increase the conviction rate and decrease the  
30 incidence of persons driving under the influence of alcohol or drugs.

31 (3) Twenty-five dollars of the fee assessed under subsection (1) of  
32 this section must be distributed to the highway safety account to be  
33 used solely for funding Washington traffic safety commission grants to  
34 reduce statewide collisions caused by persons driving under the  
35 influence of alcohol or drugs. Grants awarded under this subsection  
36 may be for projects that encourage collaboration with other community,  
37 governmental, and private organizations, and that utilize innovative

1 approaches based on best practices or proven strategies supported by  
2 research or rigorous evaluation. Grants recipients may include, for  
3 example:

4 (a) DUI courts; and

5 (b) Jurisdictions implementing the victim impact panel registries  
6 under RCW 46.61.5152 and section 6 of this act.

7 (4) If the court has suspended payment of part of the fee pursuant  
8 to subsection (1)(b) or (c) of this section, amounts collected shall be  
9 distributed proportionately.

10 (5) This section applies to any offense committed on or after July  
11 1, 1993.

12 **Sec. 4.** RCW 46.61.5056 and 1995 c 332 s 14 are each amended to  
13 read as follows:

14 (1) A person subject to alcohol assessment and treatment under RCW  
15 46.61.5055 shall be required by the court to complete a course in an  
16 alcohol information school approved by the department of social and  
17 health services or to complete more intensive treatment in a program  
18 approved by the department of social and health services, as determined  
19 by the court. The court shall notify the department of licensing  
20 whenever it orders a person to complete a course or treatment program  
21 under this section.

22 (2) A diagnostic evaluation and treatment recommendation shall be  
23 prepared under the direction of the court by an alcoholism agency  
24 approved by the department of social and health services or a qualified  
25 probation department approved by the department of social and health  
26 services. A copy of the report shall be forwarded to the court and the  
27 department of licensing. Based on the diagnostic evaluation, the court  
28 shall determine whether the person shall be required to complete a  
29 course in an alcohol information school approved by the department of  
30 social and health services or more intensive treatment in a program  
31 approved by the department of social and health services.

32 (3) Standards for approval for alcohol treatment programs shall be  
33 prescribed by the department of social and health services. The  
34 department of social and health services shall periodically review the  
35 costs of alcohol information schools and treatment programs.

36 (4) Any agency that provides treatment ordered under RCW  
37 46.61.5055, shall immediately report to the appropriate probation

1 department where applicable, otherwise to the court, and to the  
2 department of licensing any noncompliance by a person with the  
3 conditions of his or her ordered treatment. The court shall notify the  
4 department of licensing and the department of social and health  
5 services of any failure by an agency to so report noncompliance. Any  
6 agency with knowledge of noncompliance that fails to so report shall be  
7 fined two hundred fifty dollars by the department of social and health  
8 services. Upon three such failures by an agency within one year, the  
9 department of social and health services shall revoke the agency's  
10 approval under this section.

11 (5) The department of licensing and the department of social and  
12 health services may adopt such rules as are necessary to carry out this  
13 section.

14 **Sec. 5.** RCW 46.61.5152 and 2006 c 73 s 17 are each amended to read  
15 as follows:

16 In addition to penalties that may be imposed under RCW 46.61.5055,  
17 the court may require a person who is convicted of a nonfelony  
18 violation of RCW 46.61.502 or 46.61.504 or who enters a deferred  
19 prosecution program under RCW 10.05.020 based on a nonfelony violation  
20 of RCW 46.61.502 or 46.61.504, to attend an educational program, such  
21 as a victim impact panel, focusing on the emotional, physical, and  
22 financial suffering of victims who were injured by persons convicted of  
23 driving while under the influence of intoxicants. The victim impact  
24 panel program must meet the minimum standards established under section  
25 6 of this act.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 10.01 RCW  
27 to read as follows:

28 (1) The Washington traffic safety commission may develop and  
29 maintain a registry of qualified victim impact panels. When imposing  
30 a requirement that an offender attend a victim impact panel under RCW  
31 46.61.5152, the court may refer the offender to a victim impact panel  
32 that is listed in the registry. The Washington traffic safety  
33 commission may consult with victim impact panel organizations to  
34 develop and maintain a registry.

35 (2) To be listed on the registry, the victim impact panel must meet  
36 the following minimum standards:

- 1 (a) The victim impact panel must address the effects of driving  
2 while impaired on individuals and families and address alternatives to  
3 drinking and driving and drug use and driving;
- 4 (b) The victim impact panel should strive to have at least two  
5 different speakers, one of whom is a victim survivor of an impaired  
6 driving crash, to present their stories in person. A victim survivor  
7 may be the panel facilitator. The victim impact panel should be a  
8 minimum of sixty minutes of presentation, not including registration  
9 and administration time.
- 10 (c) The victim impact panel shall have policies and procedures to  
11 recruit, screen, train, and provide feedback and ongoing support to the  
12 panelists. The panel shall take reasonable steps to verify the  
13 authenticity of each panelist's story;
- 14 (d) The victim impact panel shall charge a reasonable fee to all  
15 persons required to attend, unless otherwise ordered by the court;
- 16 (e) The victim impact panel shall have a policy to prohibit  
17 admittance of anyone under the influence of alcohol or drugs, or anyone  
18 whose actions or behavior are otherwise inappropriate. The victim  
19 impact panel may institute additional admission requirements;
- 20 (f) The victim impact panel shall maintain attendance records for  
21 at least five years;
- 22 (g) The victim impact panel shall make reasonable efforts to use a  
23 facility that meets standards established by the Americans with  
24 disabilities act;
- 25 (h) The victim impact panel may provide referral information to  
26 other community services; and
- 27 (i) The victim impact panel shall have a designated facilitator who  
28 is responsible for the compliance with these minimum standards and who  
29 is responsible for maintaining appropriate records and communication  
30 with the referring courts and probationary departments regarding  
31 attendance or nonattendance."

**NOT CONSIDERED 05/25/2011**

1        On page 1, line 2 of the title, after "drugs;" strike the remainder  
2 of the title and insert "amending RCW 2.28.190, 46.61.5056, and  
3 46.61.5152; reenacting and amending RCW 46.61.5054; adding a new  
4 section to chapter 2.28 RCW; and adding a new section to chapter 10.01  
5 RCW."

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