

HOUSE BILL REPORT

SHB 1524

As Passed House:
February 7, 2018

Title: An act relating to increasing success in therapeutic courts.

Brief Description: Increasing success in therapeutic courts.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Kloba, Klippert, Goodman, Holy, Macri, Peterson, Haler, Doglio, Appleton and Stanford).

Brief History:

Committee Activity:

Judiciary: 2/1/17, 2/9/17 [DP];

Appropriations: 2/20/17, 2/22/17 [DPS].

Floor Activity:

Passed House: 3/1/17, 97-1.

Floor Activity:

Passed House: 2/7/18, 98-0.

Brief Summary of Substitute Bill

- Amends the definition of "treatment" for the purpose of the Criminal Justice Treatment Account.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 13 members: Representatives Jenkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Frame, Goodman, Graves, Haler, Hansen, Kirby, Klippert, Orwall and Shea.

Staff: Audrey Frey (786-7289).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 33 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary,

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Assistant Ranking Minority Member; Bergquist, Buys, Caldier, Cody, Condotta, Fitzgibbon, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Manweller, Nealey, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Taylor, Tharinger, Vick, Volz and Wilcox.

Staff: Andy Toulon (786-7178).

Background:

Criminal Justice Treatment Account.

Funds in the Criminal Justice Treatment Account may be expended for substance use disorder treatment and support services for offenders and nonviolent offenders within a drug court program, as well as the administrative and overhead costs associated with the operation of a drug court. The fund is administered by the Department of Social and Health Services.

Therapeutic Courts.

In 2015 the Therapeutic Courts Act (the Act) was enacted recognizing the judiciary's inherent authority to create therapeutic courts and encouraging creation of such courts by employing evidence-based and research-based best practices.

Therapeutic courts remove a defendant's or respondent's case from the criminal and civil court traditional trial track and allow those defendants or respondents the opportunity to obtain treatment services to address underlying issues that may have contributed to the conduct that led to their arrest or appearance before the court.

Therapeutic courts include, but are not limited to, adult drug courts, juvenile drug courts, family dependency or family drug courts, mental health courts, DUI courts, truancy courts, domestic violence courts, and other similar courts.

Under the Act, any jurisdiction establishing a therapeutic court must endeavor to incorporate certain best practices in structuring a therapeutic court program. These best practices may include: (a) determining the population; (b) performing a clinical assessment; (c) developing the treatment plan; (d) monitoring the participant, including any appropriate testing; (e) forging agency, organization, and community partnerships; (f) taking a judicial leadership role; (g) developing case management strategies; (h) addressing transportation, housing, and subsistence issues; (i) evaluating the program; and (j) ensuring a sustainable program.

Summary of Substitute Bill:

The definition of "treatment" for the purpose of the Criminal Justice Treatment Account (Account) is amended to mean services that are critical to a participant's successful completion of his or her substance use disorder treatment program, including, but not limited to, the recovery support and other programmatic elements outlined in the Therapeutic Courts Act. A list of services that do not qualify as treatment is removed.

A clause is added to clarify the amount the State Treasurer is required to transfer to the Criminal Justice Treatment Account from the General Fund.

The word "means" is replaced with the word "includes" as the operative verb in the definition of "treatment support," such that the definition is now inclusive rather than restrictive.

Administrative and overhead costs associated with the operation of a drug court are removed from the list of things on which funds provided to counties from the Account can be spent. Related language, regarding the maximum percentage of these funds that may be spent on administrative and overhead costs for drug courts, is also removed.

Language stating that "the authority under this section to use funds from the criminal justice treatment account for the administrative and overhead costs associated with the operation of a drug court expires June 30, 2015" is removed.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Judiciary):

(In support) Drug courts have saved lives. The support, resources, and accountability of drug courts have caused persons to face up to their addictions, mend their damaged family relationships, and stay clean and sober. Drug courts have value; they help people get their lives back and reduce harm that is done in the community via substance abuse. This bill has a great effect for the dollars spent and makes existing programs more effective. This bill eliminates outdated language, but most importantly, it broadens the categories of what the account money can do that would align drug courts with the best practices in the industry for recovery support, which enables people to become more successful in their recovery and makes everyone safer.

This bill is a slight tweak to the underlying statute on the Criminal Justice Treatment Account (Account) that would allow the addition of recovery support services to be financed with this money. There is wiggle room these days because of what the Medicaid expansion is picking up in treatment costs. The state has a waiver from certain rules, so now it can pay for some of the inpatient treatment, as well as the outpatient treatment that Medicaid has traditionally paid for. With the addition of recovery support services, the payback from drug courts jumps from 2:1 to 7:1. There was a federal grant a couple of years ago, and in a handful of counties – Clallam, Cowlitz, Okanagan, Skagit, and Snohomish County – they used the federal money for recovery support services. The Department of Social and Health Services has a study brief that shows the dramatic change when you add that little bit of support. This bill gives counties more wiggle room. It is not a mandate; this is a local option that counties can decide to use for recovery support services, should they so desire.

The Washington State Institute of Public Policy (WSIPP) did a study on recovery support services in various counties. Snohomish County obtained some funds and was able to provide some clients with additional support services, mainly housing and transportation services. The WSIPP study found that for every \$1 spent there was return of \$7.60. This

gives local governments the option to provide additional recovery support services to participants. The number one issue is with housing. A lot of the available housing is through "clean and sober housing." Clean and sober housing doesn't necessarily mean that it's clean or it's sober. There are some clean and sober houses in Snohomish County that drug court participants are not allowed to reside in, because there are reports in the community of drug dealing or that the people who run the houses prey on women. The housing options are very limited. Unfortunately, jail is sometimes the only option to keep tabs on drug court participants because there isn't any other place or housing available. Jail should not be an option. This bill gives counties the opportunity to expand services and provide additional areas of safe housing for participants.

The Account was originally created from savings from a reduction in drug sentencing a number of years ago. The idea was that money would be taken and invested into alternative programs, such as drug courts and other therapeutic courts, with the goal of reducing recidivism and the goal of eventually moving people out of the criminal justice system. That has paid off and the evidence is there to show that drug courts and therapeutic courts are in fact an effective strategy. Funding has shifted with the Affordable Care Act and Medicaid expansion, and now counties are looking at multiple different ways to fund the treatment for drug court participants. Medicaid expansion has actually picked up the treatment costs for many participants. However, Medicaid won't pay for recovery support services – the services that help drug court participants succeed while they're engaged in the treatment program. Originally, the Affordable Care Act didn't exist when the Account was created, and the Account was very specifically limited to pay for treatment. Prosecutors, in particular, were concerned that the money might get used for other services. Now prosecutors agree that those limits should be expanded and that local authorities should have control to use the Account funding in the most effective way possible to get participants successfully through a therapeutic courts program. This bill does that.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) The Criminal Justice Treatment Account is funded from money set aside for people who are not going to prison because they are going through drug courts and receiving treatment instead. Even though there is no fiscal cost associated with this bill, there will be a payback. A few years ago, there was a federal grant that provided funding in a few counties for recovery services to clients in drug courts. The return on investment jumped from 2:1, which is typical for most drug courts, to 7:1 in these counties. There are additional resources for treatment in counties that have passed the optional local tax for mental health and substance abuse services, and flexibility is needed at the local level.

(Opposed) None.

Persons Testifying (Judiciary): Representative Kloba, prime sponsor; Bob Cooper, Washington State Association of Drug Court Professionals; Joe Wilson; and John Tunheim, Washington State Association of Drug Court Professionals and Washington Association of Prosecuting Attorneys.

Persons Testifying (Appropriations): Bob Cooper, Washington State Association of Drug Court Professionals.

Persons Signed In To Testify But Not Testifying (Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.