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**HOUSE BILL 2863**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Davis, Irwin, and Kilduff

AN ACT Relating to expanding therapeutic alternatives and interventions through courts of limited jurisdiction for people with behavioral health conditions; reenacting and amending RCW 71.24.580; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) The majority of individuals in our criminal legal system live with a mental health or substance use condition, or both;

(b) Many such individuals have repeated interactions with the criminal legal system because their underlying behavioral health condition remains untreated;

(c) Mental health and substance use disorders are treatable conditions from which people recover; and

(d) Courts of limited jurisdiction can play a crucial role in providing pathways to treatment, long-term recovery, and reduced recidivism for this population.

(2) Therefore, it is the intent of the legislature to expand opportunities for district and municipal courts to engage individuals living with behavioral health conditions in therapeutic interventions to address their underlying conditions, promote recovery, and reduce recidivism.

**Sec.**  RCW 71.24.580 and 2019 c 415 s 980, 2019 c 325 s 1040, and 2019 c 314 s 27 are each reenacted and amended to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance use disorder treatment and treatment support services for offenders with a substance use disorder that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; (b) the provision of substance use disorder treatment services and treatment support services for nonviolent offenders within a drug court program; and (c) the administrative and overhead costs associated with the operation of a drug court. Amounts provided in this subsection must be used for treatment and recovery support services for criminally involved offenders and authorization of these services shall not be subject to determinations of medical necessity. During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the criminal justice treatment account to the state general fund. During the 2019-2021 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the criminal justice treatment account to the home security fund account created in RCW 43.185C.060. It is the intent of the legislature to continue the policy of transferring moneys from the criminal justice treatment account to the home security fund account in subsequent biennia. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means 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 RCW 2.30.030 authorizing therapeutic courts; and

(b) "Treatment support" includes transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) For the fiscal year beginning July 1, 2005, and each subsequent fiscal year, the state treasurer shall transfer eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(b) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (a) of this subsection to the department for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the authority from the criminal justice treatment account shall be distributed as specified in this subsection. The authority may retain up to three percent of the amount appropriated under subsection (4)(b) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the authority from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The authority, in consultation with the department of corrections, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance use disorder treatment providers, and any other person deemed by the authority to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the authority from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The authority shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, and substance use disorder treatment providers. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The submitted plan should incorporate current evidence-based practices in substance use disorder treatment. The funds shall be used solely to provide approved alcohol and substance use disorder treatment pursuant to RCW ((~~71.24.560~~)) 71.24.025 and treatment support services. No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) If a region or county uses criminal justice treatment account funds to support a therapeutic court, the therapeutic court must allow the use of all medications approved by the federal food and drug administration for the treatment of opioid use disorder as deemed medically appropriate for a participant by a medical professional. If appropriate medication-assisted treatment resources are not available or accessible within the jurisdiction, the health care authority's designee for assistance must assist the court with acquiring the resource.

(10) Counties must meet the criteria established in RCW 2.30.030(3).

(11) The authority shall annually review and monitor the expenditures made by any county or group of counties that receives appropriated funds distributed under this section. Counties shall repay any funds that are not spent in accordance with the requirements of its contract with the authority.

(12) Subject to the availability of funds appropriated for this specific purpose, moneys in the criminal justice treatment account may be expended for a district and municipal court grant program aimed at identifying criminal justice system-involved persons with mental health and substance use disorders and engaging those persons with evidence-based or emerging best practice therapeutic interventions and other services.

(a) Grants must be awarded to jurisdictions based on locally developed proposals to establish new programs or expand existing programs. Jurisdictions are encouraged to work cooperatively as authorized by RCW 2.30.050.

(b) Courts receiving funding must use the funds to create a new therapeutic court, enhance existing therapeutic court operations, or make therapeutic interventions and supports available to individuals with behavioral health conditions. Enhancements and supports may include the following:

(i) Performing on-site assessments for behavioral health conditions;

(ii) Developing criminal legal system-behavioral health partnerships used by communities to assess local resources, gaps, and opportunities;

(iii) Implementing comprehensive client case management systems;

(iv) Establishing peer support programs to pair individuals in the court system with trained peer supports who are themselves in recovery and who can help court-involved individuals identify and break down barriers to recovery;

(v) Developing and coordinating pretrial release programs, diversion program supervision, postconviction supervision, and seamless transitions to and from jail reentry programs, as well as programs that work with participants sentenced to jail alternatives;

(vi) Providing specialized training for judges and therapeutic court personnel relating to the adjudication of cases involving individuals with behavioral health needs;

(vii) Employing technology and software that assist the court to notify the participant of the need to appear in court or at needed appointments; and

(viii) Other innovative interventions targeted specifically at persons with substance use disorders and other behavioral health needs.

(c) The authority shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the district and municipal judges association, the Washington state association of counties, the association of Washington cities, the Washington defender's association or the Washington association of criminal defense lawyers, a representative of therapeutic courts at the district and municipal court level, behavioral health treatment providers, recovery support service providers, a peer support service provider, and persons with lived experience of behavioral health conditions and criminal legal system involvement. The panel shall review applications for funding and allocate funding based upon the needs of the applicants as expressed in their proposal. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(d) Priority shall be given to applicants if the needed resources are being provided through a memorandum of understanding or other form of agreement with existing resource providers versus the creation of a new resource provider or the addition of staff to the jurisdiction to perform a service that already exists in the community.

(e) Money received by grant recipients under this program must be used to supplement, not supplant, any other local, state, and federal funds for the court.

(f) No civil liability may be imposed by any court on the state or its officers or employees, an appointed or elected official, public employee, public agency as defined in RCW 4.24.470, combination of units of government and its employees as provided in RCW 36.28A.010, nonprofit community-based organization, tribal government entity, tribal organization, or urban Indian organization based on the administration of this grant program or activities carried out within the purview of a grant received under this program except upon proof of bad faith or gross negligence.

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