

HOUSE BILL 2790

State of Washington 58th Legislature 2004 Regular Session

By Representatives Kagi, O'Brien, Darneille and Upthegrove

Read first time 01/20/2004. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to drug offenses; amending RCW 9.94A.517, 2.28.170,
2 and 70.96A.350; and prescribing penalties.

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

4 Sec. 1. RCW 9.94A.517 and 2002 c 290 s 8 are each amended to read
5 as follows:

6 (1)

7 TABLE 3

8 DRUG OFFENSE SENTENCING GRID

9	Seriousness	Offender Score	Offender Score	Offender Score
10	Level	0 to 2	3 to 5	6 to 9 or more
11	III	51 to 68 months	68+ to 100 months	100+ to 120 months
12	II	12+ to 20 months	20+ to 60 months	60+ to 120 months
13	I	0 to 6 months	6+ to ((18 months))	12+ to 24 months
14			<u>12 months</u>	

15 References to months represent the standard sentence ranges. 12+
16 equals one year and one day.

1 (2) The court may utilize any other sanctions or alternatives as
2 authorized by law, including but not limited to the special drug
3 offender sentencing alternative under RCW 9.94A.660 or drug court under
4 RCW 2.28.170.

5 (3) Nothing in this section creates an entitlement for a criminal
6 defendant to any specific sanction, alternative, sentence option, or
7 substance abuse treatment.

8 **Sec. 2.** RCW 2.28.170 and 2002 c 290 s 13 are each amended to read
9 as follows:

10 (1) Counties may establish and operate drug courts.

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

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

20 (i) Exhaust all federal funding received from the office of
21 national drug control policy that is available to support the
22 operations of its drug court and associated services; and

23 (ii) (~~Match, on a dollar for dollar basis,~~) Make a ten percent
24 match to state moneys allocated for drug court programs with local cash
25 (~~or in kind~~) resources. Moneys allocated by the state must be used
26 to supplement, not supplant, other federal, state, and local funds for
27 drug court operations and associated services.

28 (b) Any county that establishes a drug court pursuant to this
29 section shall establish minimum requirements for the participation of
30 offenders in the program. The drug 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 substance abuse 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; and

36 (iii) Without regard to whether proof of any of these elements is

1 required to convict, the offender is not currently charged with or
2 convicted of an offense:

- 3 (A) That is a sex offense;
- 4 (B) That is a serious violent offense;
- 5 (C) During which the defendant used a firearm; or
- 6 (D) During which the defendant caused substantial or great bodily
7 harm or death to another person.

8 **Sec. 3.** RCW 70.96A.350 and 2003 c 379 s 11 are each amended to
9 read as follows:

10 (1) The criminal justice treatment account is created in the state
11 treasury. Moneys in the account may be expended solely for: (a)
12 Substance abuse treatment and treatment support services for offenders
13 with an addiction or a substance abuse problem that, if not treated,
14 would result in addiction, against whom charges are filed by a
15 prosecuting attorney in Washington state; and (b) the provision of drug
16 and alcohol treatment services and treatment support services for
17 nonviolent offenders within a drug court program. Moneys in the
18 account may be spent only after appropriation.

19 (2) For purposes of this section:

20 (a) "Treatment" means services that are critical to a participant's
21 successful completion of his or her substance abuse treatment program,
22 but does not include the following services: Housing other than that
23 provided as part of an inpatient substance abuse treatment program,
24 vocational training, and mental health counseling; and

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

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

32 (4)(a)(i) For the fiscal biennium beginning July 1, 2003, the state
33 treasurer shall transfer eight million nine hundred fifty thousand
34 dollars from the general fund into the criminal justice treatment
35 account, divided into eight equal quarterly payments.

36 (ii) For the fiscal year beginning July 1, 2004, the treasurer

1 shall transfer an additional four hundred forty-five thousand dollars
2 from the general fund to the criminal justice treatment account,
3 divided into four equal quarterly payments.

4 (iii) For the fiscal year beginning July 1, 2005, and each
5 subsequent fiscal year, the state treasurer shall transfer eight
6 million (~~two~~) nine hundred (~~fifty~~) forty-seven thousand dollars
7 from the general fund to the criminal justice treatment account,
8 divided into four equal quarterly payments.

9 (iv) For the fiscal year beginning July 1, 2006, and each
10 subsequent fiscal year, the amount transferred shall be increased on an
11 annual basis by the implicit price deflator as published by the federal
12 bureau of labor statistics.

13 (b) For the fiscal biennium beginning July 1, 2003, and each
14 biennium thereafter, the state treasurer shall transfer two million
15 nine hundred eighty-four thousand dollars from the general fund into
16 the violence reduction and drug enforcement account, divided into eight
17 quarterly payments. The amounts transferred pursuant to this
18 subsection (4)(b) shall be used solely for providing drug and alcohol
19 treatment services to offenders confined in a state correctional
20 facility who are assessed with an addiction or a substance abuse
21 problem that if not treated would result in addiction.

22 (c) In each odd-numbered year, the legislature shall appropriate
23 the amount transferred to the criminal justice treatment account in (a)
24 of this subsection to the division of alcohol and substance abuse for
25 the purposes of subsection (5) of this section.

26 (5) Moneys appropriated to the division of alcohol and substance
27 abuse from the criminal justice treatment account shall be distributed
28 as specified in this subsection. The department shall serve as the
29 fiscal agent for purposes of distribution. Until July 1, 2004, the
30 department may not use moneys appropriated from the criminal justice
31 treatment account for administrative expenses and shall distribute all
32 amounts appropriated under subsection (4)(c) of this section in
33 accordance with this subsection. Beginning in July 1, 2004, the
34 department may retain up to three percent of the amount appropriated
35 under subsection (4)(c) of this section for its administrative costs.

36 (a) Seventy percent of amounts appropriated to the division from
37 the account shall be distributed to counties pursuant to the
38 distribution formula adopted under this section. The division of

1 alcohol and substance abuse, in consultation with the department of
2 corrections, the sentencing guidelines commission, the Washington state
3 association of counties, the Washington state association of drug court
4 professionals, the superior court judges' association, the Washington
5 association of prosecuting attorneys, representatives of the criminal
6 defense bar, representatives of substance abuse treatment providers,
7 and any other person deemed by the division to be necessary, shall
8 establish a fair and reasonable methodology for distribution to
9 counties of moneys in the criminal justice treatment account. County
10 or regional plans submitted for the expenditure of formula funds must
11 be approved by the panel established in (b) of this subsection.

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

26 (6) The county alcohol and drug coordinator, county prosecutor,
27 county sheriff, county superior court, a substance abuse treatment
28 provider appointed by the county legislative authority, a member of the
29 criminal defense bar appointed by the county legislative authority,
30 and, in counties with a drug court, a representative of the drug court
31 shall jointly submit a plan, approved by the county legislative
32 authority or authorities, to the panel established in subsection (5)(b)
33 of this section, for disposition of all the funds provided from the
34 criminal justice treatment account within that county. The funds shall
35 be used solely to provide approved alcohol and substance abuse
36 treatment pursuant to RCW 70.96A.090 and treatment support services.
37 No more than ten percent of the total moneys received under subsections

1 (4) and (5) of this section by a county or group of counties
2 participating in a regional agreement shall be spent for treatment
3 support services.

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

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

10 (9) Counties must meet the criteria established in RCW
11 2.28.170(3)(b).

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