

CERTIFICATION OF ENROLLMENT

SENATE BILL 5797

63rd Legislature
2013 Regular Session

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

President of the Senate

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

Speaker of the House of Representatives

Approved

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.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5797

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.

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