
HOUSE BILL 2556

State of Washington 63rd Legislature 2014 Regular Session

By Representatives Freeman, Rodne, Kagi, and Pollet

Read first time 01/21/14. Referred to Committee on Judiciary.

1 AN ACT Relating to authorizing, funding, and encouraging the
2 establishment of therapeutic courts; amending RCW 82.14.460; adding a
3 new chapter to Title 2 RCW; creating a new section; and repealing RCW
4 2.28.170, 2.28.175, 2.28.180, 2.28.190, 13.40.700, 13.40.710,
5 26.12.250, 2.28.165, and 2.28.166.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that judges in the
8 trial courts throughout the state effectively utilize what are known as
9 therapeutic courts to remove a defendant's or respondent's case, with
10 the consent of the defendant or respondent and the consent of a
11 government authority, from the criminal and civil court traditional
12 trial track and allow those defendants or respondents the opportunity
13 to obtain treatment services to address particular issues that may have
14 contributed to the conduct that led to their arrest or other issues
15 before the court. Trial courts have proved adept at creative
16 approaches in fashioning a wide variety of therapeutic courts
17 addressing the spectrum of social issues that can contribute to
18 criminal activity and engagement with the child welfare system.

1 (2) The legislature further finds that focusing on the specific
2 individual's needs, providing treatment for the issues presented, and
3 ensuring rapid and appropriate accountability for program violations,
4 therapeutic courts may decrease recidivism, improve the safety of the
5 community, and improve the life of the program participant and the
6 participant's family by decreasing the severity and frequency of the
7 specific behavior addressed by the therapeutic court.

8 (3) The legislature recognizes the (a) inherent authority of the
9 judiciary under Article IV, section 1 of the state Constitution to
10 establish therapeutic courts, and (b) outstanding contribution to the
11 state and a local community made by the establishment of therapeutic
12 courts, and desires to provide a general provision in statute
13 acknowledging and encouraging the judiciary to provide for therapeutic
14 court programs to address the particular needs within a given judicial
15 jurisdiction.

16 (4) Such therapeutic court programs may include, but are not
17 limited to:

- 18 (a) Adult drug court;
- 19 (b) Juvenile drug court;
- 20 (c) Family dependency treatment court or family drug court;
- 21 (d) Mental health court, which may include participants with
22 developmental disabilities;
- 23 (e) DUI court;
- 24 (f) Veterans treatment court;
- 25 (g) Truancy court;
- 26 (h) Domestic violence court;
- 27 (i) Gambling court;
- 28 (j) Community court;
- 29 (k) Homeless court;
- 30 (l) Treatment, responsibility, and accountability on campus (Back
31 on TRAC) court.

32 NEW SECTION. **Sec. 2.** The definitions in this section apply
33 throughout this chapter unless the context clearly requires otherwise:

34 (1) "Emerging best practice" or "promising practice" means a
35 program or practice that, based on statistical analyses or a well-
36 established theory of change, shows potential for meeting the evidence-

1 based or research-based criteria, which may include the use of a
2 program that is evidence-based for outcomes other than those listed in
3 this section.

4 (2) "Evidence-based" means a program or practice that has been
5 tested in heterogeneous or intended populations with multiple
6 randomized, or statistically controlled evaluations, or both; or one
7 large multiple site randomized, or statistically controlled evaluation,
8 or both, where the weight of the evidence from a systemic review
9 demonstrates sustained improvements in at least one outcome.
10 "Evidence-based" also means a program or practice that can be
11 implemented with a set of procedures to allow successful replication in
12 Washington and, when possible, is determined to be cost-beneficial.

13 (3) "Government authority" means prosecutor or other representative
14 initiating action leading to a proceeding in therapeutic court.

15 (4) "Participant" means an accused person, offender, or respondent
16 in the judicial proceeding.

17 (5) "Research-based" means a program or practice that has been
18 tested with a single randomized, or statistically controlled
19 evaluation, or both, demonstrating sustained desirable outcomes; or
20 where the weight of the evidence from a systemic review supports
21 sustained outcomes as described in this subsection but does not meet
22 the full criteria for evidence-based.

23 (6) "Specialty court" and "therapeutic court" both mean a court
24 utilizing a program or programs structured to achieve both a reduction
25 in recidivism, increase the likelihood of rehabilitation, or reduce
26 child abuse and neglect, out-of-home placements of children,
27 termination of parental rights, and substance abuse and mental health
28 symptoms among parents or guardians and their children through
29 continuous and intense judicially supervised treatment and the
30 appropriate use of services, sanctions, and incentives.

31 (7) "Trial court" means a superior court authorized under Title 2
32 RCW, and/or a district or municipal court authorized under Title 3 or
33 35 RCW.

34 (8) "Therapeutic court personnel" means the staff of a therapeutic
35 court including, but not limited to: Court and clerk personnel with
36 therapeutic court duties, prosecuting attorneys, the attorney general
37 or his or her representatives, defense counsel, monitoring personnel,
38 and others acting within the scope of therapeutic court duties.

1 NEW SECTION. **Sec. 3.** (1) Every trial and juvenile court in the
2 state of Washington is authorized and encouraged to establish and
3 operate therapeutic courts. Therapeutic courts, in conjunction with
4 the government authority and subject matter experts specific to the
5 focus of the therapeutic court, develop and process cases in ways which
6 depart from traditional judicial processes. Defendants or respondents
7 may apply to participate only with their consent and, in criminal
8 cases, the consent of the prosecutor, to allow those defendants or
9 respondents the opportunity to obtain treatment services to address
10 particular issues that may have contributed to the conduct that led to
11 their arrest or involvement in the child welfare system in exchange for
12 resolution of the case or charges.

13 (2) While a therapeutic court judge retains the discretion to
14 decline to accept a case into the therapeutic court, and while a
15 therapeutic court retains discretion to establish processes and
16 determine eligibility for admission to the therapeutic court process
17 unique to their community and jurisdiction, the effectiveness and
18 credibility of any therapeutic court will be enhanced when the court
19 implements evidence-based practices, research-based practices, emerging
20 best practices, or promising practices which have been identified and
21 accepted at the state and national levels. Promising practices,
22 emerging best practices, and/or research-based programs are authorized
23 where determined by the court to be appropriate. As practices evolve,
24 the trial court shall regularly assess the effectiveness of its program
25 and the methods by which it implements and adopts new best practices.

26 (3) Except under special findings by the court, the following
27 individuals are not allowed into therapeutic courts:

28 (a) Individuals who are currently charged or who have been
29 previously convicted of a serious violent offense or sex offense as
30 defined in RCW 9.94A.030;

31 (b) Individuals who are currently charged with an offense alleging
32 intentional discharge, threat to discharge, or attempt to discharge a
33 firearm in furtherance of the offense;

34 (c) Individuals charged with or previously convicted of vehicular
35 homicide or an equivalent out-of-state offense; or

36 (d) Individuals who are currently charged with or previously
37 convicted of: An offense alleging substantial bodily harm or great
38 bodily harm as defined in RCW 9.94A.030, or death of another person.

1 (4) Any jurisdiction establishing a therapeutic court shall
2 endeavor to incorporate the therapeutic court principles of best
3 practices as recognized by state and national therapeutic court
4 organizations in structuring a particular program, which may include:

- 5 (a) Determining the population;
- 6 (b) Performing a clinical assessment;
- 7 (c) Developing the treatment plan;
- 8 (d) Monitoring the participant, including any appropriate testing;
- 9 (e) Forging agency, organization, and community partnerships;
- 10 (f) Taking a judicial leadership role;
- 11 (g) Developing case management strategies;
- 12 (h) Addressing transportation, housing, and subsistence issues;
- 13 (i) Evaluating the program;
- 14 (j) Ensuring a sustainable program.

15 (5) Upon a showing of indigence under RCW 10.101.010, fees may be
16 reduced or waived.

17 (6) The department of social and health services shall furnish
18 services to therapeutic courts addressing dependency matters where
19 substance abuse or mental health are an issue unless the court
20 contracts with providers outside of the department.

21 (7) Any jurisdiction that has established more than one therapeutic
22 court under this chapter may combine the functions of these courts into
23 a single therapeutic court.

24 (8) Nothing in this section prohibits a district or municipal court
25 from ordering treatment or other conditions of sentence or probation
26 following a conviction, without the consent of either the prosecutor or
27 defendant.

28 NEW SECTION. **Sec. 4.** Jurisdictions seeking state funding for
29 therapeutic courts must exhaust all federal funding available to
30 support the operation of its therapeutic court and associated services
31 and match, on a dollar-for-dollar basis, state moneys allocated for
32 therapeutic courts with local cash or in-kind resources. Moneys
33 allocated by the state may be used to supplement, not supplant other
34 federal, state, and local funds for therapeutic courts. However, until
35 June 30, 2015, no match is required for state moneys expended for the
36 administrative and overhead costs associated with the operation of a
37 therapeutic court authorized under this chapter.

1 **Sec. 5.** RCW 82.14.460 and 2012 c 180 s 1 are each amended to read
2 as follows:

3 (1)(a) A county legislative authority may authorize, fix, and
4 impose a sales and use tax in accordance with the terms of this
5 chapter.

6 (b) If a county with a population over eight hundred thousand has
7 not imposed the tax authorized under this subsection by January 1,
8 2011, any city with a population over thirty thousand located in that
9 county may authorize, fix, and impose the sales and use tax in
10 accordance with the terms of this chapter. The county must provide a
11 credit against its tax for the full amount of tax imposed under this
12 subsection (1)(b) by any city located in that county if the county
13 imposes the tax after January 1, 2011.

14 (2) The tax authorized in this section is in addition to any other
15 taxes authorized by law and must be collected from those persons who
16 are taxable by the state under chapters 82.08 and 82.12 RCW upon the
17 occurrence of any taxable event within the county for a county's tax
18 and within a city for a city's tax. The rate of tax equals one-tenth
19 of one percent of the selling price in the case of a sales tax, or
20 value of the article used, in the case of a use tax.

21 (3) Moneys collected under this section must be used solely for the
22 purpose of providing for the operation or delivery of chemical
23 dependency or mental health treatment programs and services and for the
24 operation or delivery of therapeutic court programs and services. For
25 the purposes of this section, "programs and services" includes, but is
26 not limited to, treatment services, case management, transportation,
27 and housing that are a component of a coordinated chemical dependency
28 or mental health treatment program or service. Every jurisdiction that
29 authorizes the tax provided in this section shall, and every other
30 jurisdiction may, establish and operate a therapeutic court component
31 for dependency proceedings designed to be effective for the court's
32 size, location, and resources.

33 (4) All moneys collected under this section must be used solely for
34 the purpose of providing new or expanded programs and services as
35 provided in this section, except as follows:

36 (a) For a county with a population larger than twenty-five thousand
37 or a city with a population over thirty thousand, which initially
38 imposed the tax authorized under this section prior to January 1, 2012,

1 a portion of moneys collected under this section may be used to
2 supplant existing funding for these purposes as follows: Up to fifty
3 percent may be used to supplant existing funding in calendar years
4 2011-2012; up to forty percent may be used to supplant existing funding
5 in calendar year 2013; up to thirty percent may be used to supplant
6 existing funding in calendar year 2014; up to twenty percent may be
7 used to supplant existing funding in calendar year 2015; and up to ten
8 percent may be used to supplant existing funding in calendar year 2016;

9 (b) For a county with a population larger than twenty-five thousand
10 or a city with a population over thirty thousand, which initially
11 imposes the tax authorized under this section after December 31, 2011,
12 a portion of moneys collected under this section may be used to
13 supplant existing funding for these purposes as follows: Up to fifty
14 percent may be used to supplant existing funding for up to the first
15 three calendar years following adoption; and up to twenty-five percent
16 may be used to supplant existing funding for the fourth and fifth years
17 after adoption;

18 (c) For a county with a population of less than twenty-five
19 thousand, a portion of moneys collected under this section may be used
20 to supplant existing funding for these purposes as follows: Up to
21 eighty percent may be used to supplant existing funding in calendar
22 years 2011-2012; up to sixty percent may be used to supplant existing
23 funding in calendar year 2013; up to forty percent may be used to
24 supplant existing funding in calendar year 2014; up to twenty percent
25 may be used to supplant existing funding in calendar year 2015; and up
26 to ten percent may be used to supplant existing funding in calendar
27 year 2016; and

28 (d) Notwithstanding (a) through (c) of this subsection, moneys
29 collected under this section may be used to support the cost of the
30 judicial officer and support staff of a therapeutic court.

31 (5) Nothing in this section may be interpreted to prohibit the use
32 of moneys collected under this section for the replacement of lapsed
33 federal funding previously provided for the operation or delivery of
34 services and programs as provided in this section.

35 NEW SECTION. **Sec. 6.** Individual trial courts are authorized and
36 encouraged to establish multijurisdictional partnerships and/or
37 interlocal agreements under RCW 39.34.180 to enhance and expand the

1 coverage area of the therapeutic court. Specifically, district and
2 municipal courts may work cooperatively with each other and with the
3 superior courts to identify and implement nontraditional case
4 processing methods which can eliminate traditional barriers that
5 decrease judicial efficiency.

6 NEW SECTION. **Sec. 7.** Any therapeutic court meeting the definition
7 of therapeutic court in section 2 of this act and existing on the
8 effective date of this section continues to be authorized.

9 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
10 repealed:

11 (1) RCW 2.28.170 (Drug courts) and 2013 2nd sp.s. c 4 s 952, 2013
12 2nd sp.s. c 4 s 951, 2013 c 257 s 5, 2009 c 445 s 2, 2006 c 339 s 106,
13 2005 c 504 s 504, 2002 c 290 s 13, & 1999 c 197 s 9;

14 (2) RCW 2.28.175 (DUI courts) and 2013 2nd sp.s. c 35 s 2, 2013 c
15 257 s 6, 2012 c 183 s 1, & 2011 c 293 s 10;

16 (3) RCW 2.28.180 (Mental health courts) and 2013 c 257 s 7, 2011 c
17 236 s 1, & 2005 c 504 s 501;

18 (4) RCW 2.28.190 (DUI court, drug court, and mental health court
19 may be combined) and 2013 c 257 s 8, 2011 c 293 s 11, & 2005 c 504 s
20 502;

21 (5) RCW 13.40.700 (Juvenile gang courts--Minimum requirements--
22 Admission--Individualized plan--Completion) and 2012 c 146 s 2;

23 (6) RCW 13.40.710 (Juvenile gang courts--Data--Reports) and 2012 c
24 146 s 3;

25 (7) RCW 26.12.250 (Therapeutic courts) and 2005 c 504 s 503;

26 (8) RCW 2.28.165 (Specialty and therapeutic courts--Establishment--
27 Principles of best practices--Limitations) and 2013 c 257 s 2; and

28 (9) RCW 2.28.166 (Definition of "specialty court" and "therapeutic
29 court") and 2013 c 257 s 4.

30 NEW SECTION. **Sec. 9.** Sections 1 through 4, 6, and 7 of this act
31 constitute a new chapter in Title 2 RCW.

32 NEW SECTION. **Sec. 10.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
4 conflict with federal requirements that are a prescribed condition to
5 the allocation of federal funds to the state, the conflicting part of
6 this act is inoperative solely to the extent of the conflict and with
7 respect to the agencies directly affected, and this finding does not
8 affect the operation of the remainder of this act in its application to
9 the agencies concerned. Rules adopted under this act must meet federal
10 requirements that are a necessary condition to the receipt of federal
11 funds by the state.

--- END ---