
HOUSE BILL 1167

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Lias, Goodman, Probst, Rolfes, Moscoso, Roberts, Fitzgibbon, Billig, Miloscia, and Maxwell

Read first time 01/13/11. Referred to Committee on Judiciary.

1 AN ACT Relating to driving or being in physical control of a motor
2 vehicle while under the influence of alcohol or drugs; amending RCW
3 2.28.190, 46.61.5056, and 46.61.5152; reenacting and amending RCW
4 46.61.5054; adding a new section to chapter 2.28 RCW; and adding a new
5 section to chapter 10.01 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 2.28 RCW
8 to read as follows:

9 (1) Counties may establish and operate DUI courts.

10 (2) For the purposes of this section, "DUI court" means a court
11 that has special calendars or dockets designed to achieve a reduction
12 in recidivism of drunk driving among nonviolent, alcohol abusing
13 offenders, whether adult or juvenile, by increasing their likelihood
14 for successful rehabilitation through early, continuous, and intense
15 judicially supervised treatment; mandatory periodic testing for alcohol
16 use and, if applicable, drug use; 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 DUI court program must first:

1 (i) Exhaust all federal funding that is available to support the
2 operations of its DUI court and associated services; and

3 (ii) Match, on a dollar-for-dollar basis, state moneys allocated
4 for DUI court programs with local cash or in-kind resources. Moneys
5 allocated by the state must be used to supplement, not supplant, other
6 federal, state, and local funds for DUI court operations and associated
7 services. However, until June 30, 2014, no match is required for state
8 moneys expended for the administrative and overhead costs associated
9 with the operation of a DUI court established as of January 1, 2011.

10 (b) Any county that establishes a DUI court pursuant to this
11 section shall establish minimum requirements for the participation of
12 offenders in the program. The DUI court may adopt local requirements
13 that are more stringent than the minimum. The minimum requirements
14 are:

15 (i) The offender would benefit from alcohol treatment;

16 (ii) The offender has not previously been convicted of a serious
17 violent offense or sex offense as defined in RCW 9.94A.030, vehicular
18 homicide under RCW 46.61.520, vehicular assault under RCW 46.61.522, or
19 an equivalent out-of-state offense; and

20 (iii) Without regard to whether proof of any of these elements is
21 required to convict, the offender is not currently charged with or
22 convicted of an offense:

23 (A) That is a sex offense;

24 (B) That is a serious violent offense;

25 (C) That is vehicular homicide or vehicular assault;

26 (D) During which the defendant used a firearm; or

27 (E) During which the defendant caused substantial or great bodily
28 harm or death to another person.

29 **Sec. 2.** RCW 2.28.190 and 2005 c 504 s 502 are each amended to read
30 as follows:

31 Any county that has established a DUI court, drug court, and a
32 mental health court under this chapter may combine the functions of
33 (~~both~~) these courts into a single therapeutic court.

34 **Sec. 3.** RCW 46.61.5054 and 1995 c 398 s 15 and 1995 c 332 s 13 are
35 each reenacted and amended to read as follows:

36 (1)(a) In addition to penalties set forth in RCW 46.61.5051 through

1 46.61.5053 until September 1, 1995, and RCW 46.61.5055 thereafter, a
2 ((one)) two hundred ((~~twenty-five~~)) dollar fee shall be assessed to a
3 person who is either convicted, sentenced to a lesser charge, or given
4 deferred prosecution, as a result of an arrest for violating RCW
5 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for the
6 purpose of funding the Washington state toxicology laboratory and the
7 Washington state patrol for grants and activities to increase the
8 conviction rate and decrease the incidence of persons driving under the
9 influence of alcohol or drugs.

10 (b) Upon a verified petition by the person assessed the fee, the
11 court may suspend payment of all or part of the fee if it finds that
12 the person does not have the ability to pay.

13 (c) When a minor has been adjudicated a juvenile offender for an
14 offense which, if committed by an adult, would constitute a violation
15 of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall
16 assess the ((one)) two hundred ((~~twenty-five~~)) dollar fee under (a) of
17 this subsection. Upon a verified petition by a minor assessed the fee,
18 the court may suspend payment of all or part of the fee if it finds
19 that the minor does not have the ability to pay the fee.

20 (2) The fee assessed under subsection (1) of this section shall be
21 collected by the clerk of the court and, subject to subsection (4) of
22 this section, one hundred seventy-five dollars of the fee must be
23 distributed as follows:

24 (a) Forty percent shall be subject to distribution under RCW
25 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

26 (b) The remainder of the fee shall be forwarded to the state
27 treasurer who shall, through June 30, 1997, deposit: Fifty percent in
28 the death investigations' account to be used solely for funding the
29 state toxicology laboratory blood or breath testing programs; and fifty
30 percent in the state patrol highway account to be used solely for
31 funding activities to increase the conviction rate and decrease the
32 incidence of persons driving under the influence of alcohol or drugs.
33 Effective July 1, 1997, the remainder of the fee shall be forwarded to
34 the state treasurer who shall deposit: Fifteen percent in the death
35 investigations' account to be used solely for funding the state
36 toxicology laboratory blood or breath testing programs; and eighty-five
37 percent in the state patrol highway account to be used solely for

1 funding activities to increase the conviction rate and decrease the
2 incidence of persons driving under the influence of alcohol or drugs.

3 (3) Twenty-five dollars of the fee assessed under subsection (1) of
4 this section must be distributed to the state patrol highway account to
5 be used solely for funding Washington traffic safety commission grants
6 to reduce statewide collisions caused by persons driving under the
7 influence of alcohol or drugs. Grants awarded under this subsection
8 may be for projects that encourage collaboration with other community,
9 governmental, and private organizations, and that utilize innovative
10 approaches based on best practices or proven strategies supported by
11 research or rigorous evaluation. Grants recipients may include, for
12 example:

13 (a) DUI courts; and

14 (b) Jurisdictions implementing the victim impact panel registries
15 under RCW 46.61.5152 and section 6 of this act.

16 (4) If the court has suspended payment of part of the fee pursuant
17 to subsection (1)(b) or (c) of this section, amounts collected shall be
18 distributed proportionately.

19 (5) This section applies to any offense committed on or after July
20 1, 1993.

21 **Sec. 4.** RCW 46.61.5056 and 1995 c 332 s 14 are each amended to
22 read as follows:

23 (1) A person subject to alcohol assessment and treatment under RCW
24 46.61.5055 shall be required by the court to complete a course in an
25 alcohol information school approved by the department of social and
26 health services or to complete more intensive treatment in a program
27 approved by the department of social and health services, as determined
28 by the court. The court shall notify the department of licensing
29 whenever it orders a person to complete a course or treatment program
30 under this section.

31 (2) A diagnostic evaluation and treatment recommendation shall be
32 prepared under the direction of the court by an alcoholism agency
33 approved by the department of social and health services or a qualified
34 probation department approved by the department of social and health
35 services. A copy of the report shall be forwarded to the court and the
36 department of licensing. Based on the diagnostic evaluation, the court
37 shall determine whether the person shall be required to complete a

1 course in an alcohol information school approved by the department of
2 social and health services or more intensive treatment in a program
3 approved by the department of social and health services.

4 (3) Standards for approval for alcohol treatment programs shall be
5 prescribed by the department of social and health services. The
6 department of social and health services shall periodically review the
7 costs of alcohol information schools and treatment programs.

8 (4) Any agency that provides treatment ordered under RCW
9 46.61.5055, shall immediately report to the appropriate probation
10 department where applicable, otherwise to the court, and to the
11 department of licensing any noncompliance by a person with the
12 conditions of his or her ordered treatment. The court shall notify the
13 department of licensing and the department of social and health
14 services of any failure by an agency to so report noncompliance. Any
15 agency with knowledge of noncompliance that fails to so report shall be
16 fined two hundred fifty dollars by the department of social and health
17 services. Upon three such failures by an agency within one year, the
18 department of social and health services shall revoke the agency's
19 approval under this section.

20 (5) The department of licensing and the department of social and
21 health services may adopt such rules as are necessary to carry out this
22 section.

23 **Sec. 5.** RCW 46.61.5152 and 2006 c 73 s 17 are each amended to read
24 as follows:

25 In addition to penalties that may be imposed under RCW 46.61.5055,
26 the court may require a person who is convicted of a nonfelony
27 violation of RCW 46.61.502 or 46.61.504 or who enters a deferred
28 prosecution program under RCW 10.05.020 based on a nonfelony violation
29 of RCW 46.61.502 or 46.61.504, to attend an educational program, such
30 as a victim impact panel, focusing on the emotional, physical, and
31 financial suffering of victims who were injured by persons convicted of
32 driving while under the influence of intoxicants. The victim impact
33 panel program must meet the minimum standards established under section
34 6 of this act.

35 NEW SECTION. **Sec. 6.** A new section is added to chapter 10.01 RCW
36 to read as follows:

1 (1)(a) Each court administration or the equivalent shall develop
2 and maintain a registry of qualified victim impact panels. When
3 imposing a requirement that an offender attend a victim impact panel
4 under RCW 46.61.5152, the court shall refer the offender to a victim
5 impact panel that is listed in the registry. Municipal, district, and
6 superior courts may coordinate efforts to develop and maintain a
7 registry for their judicial district.

8 (b) The court may remove from the registry any victim impact panel
9 that fails to meet the minimum standards. Any person who reasonably
10 believes that a victim impact panel has failed to meet the minimum
11 standards in this section may submit his or her complaint to the court
12 in writing. The court may establish a process to receive and review
13 complaints and conduct disciplinary procedures for victim impact
14 panels.

15 (2) To be listed among a court's registry, the victim impact panel
16 must meet the following minimum standards:

17 (a) The victim impact panel must address the effects of driving
18 while impaired on individuals and families and address alternatives to
19 drinking and driving and drug use and driving;

20 (b) The victim impact panel must have at least two different
21 speakers who shall be victim survivors of drunk driving crashes and who
22 were not the proximate cause of the crash. One of the victim survivors
23 may be the panel facilitator. The victim survivors must present their
24 stories in person and must be provided at least sixty minutes of victim
25 panel presentation, not including registration and administration time;

26 (c) The victim impact panel shall have policies and procedures to
27 recruit, screen, train, and provide feedback and ongoing support to the
28 panelists. The panel shall take reasonable steps to verify the
29 authenticity of each panelist's story;

30 (d) The victim impact panel shall charge a reasonable fee to all
31 persons required to attend, unless otherwise ordered by the court;

32 (e) The victim impact panel shall have a policy to prohibit
33 admittance of anyone under the influence of alcohol or drugs, or anyone
34 whose actions or behavior are otherwise inappropriate. The victim
35 impact panel may institute additional admission requirements;

36 (f) The victim impact panel shall maintain attendance records for
37 at least five years;

1 (g) The victim impact panel shall make reasonable efforts to use a
2 facility that meets standards established by the Americans with
3 disabilities act;

4 (h) The victim impact panel shall provide referral information to
5 other community services; and

6 (i) The victim impact panel shall have a designated facilitator who
7 is responsible for the compliance with these minimum standards and who
8 is responsible for maintaining appropriate records and communication
9 with the referring courts and probationary departments regarding
10 attendance or nonattendance.

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