
HOUSE BILL 2863

State of Washington

66th Legislature

2020 Regular Session

By Representatives Davis, Irwin, and Kilduff

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

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

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

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

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

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

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

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

1 **Sec. 2.** RCW 71.24.580 and 2019 c 415 s 980, 2019 c 325 s 1040,
2 and 2019 c 314 s 27 are each reenacted and amended to read as
3 follows:

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

27 (2) For purposes of this section:

28 (a) "Treatment" means services that are critical to a
29 participant's successful completion of his or her substance use
30 disorder treatment program, including but not limited to the recovery
31 support and other programmatic elements outlined in RCW 2.30.030
32 authorizing therapeutic courts; and

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

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

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

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

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

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

32 (b) Thirty percent of the amounts appropriated to the authority
33 from the account shall be distributed as grants for purposes of
34 treating offenders against whom charges are filed by a county
35 prosecuting attorney. The authority shall appoint a panel of
36 representatives from the Washington association of prosecuting
37 attorneys, the Washington association of sheriffs and police chiefs,
38 the superior court judges' association, the Washington state
39 association of counties, the Washington defender's association or the
40 Washington association of criminal defense lawyers, the department of

1 corrections, the Washington state association of drug court
2 professionals, and substance use disorder treatment providers. The
3 panel shall review county or regional plans for funding under (a) of
4 this subsection and grants approved under this subsection. The panel
5 shall attempt to ensure that treatment as funded by the grants is
6 available to offenders statewide.

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

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

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

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

39 (10) Counties must meet the criteria established in RCW
40 2.30.030(3).

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

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

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

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

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

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

27 (iii) Implementing comprehensive client case management systems;

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

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

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

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

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

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

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

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

31 (f) No civil liability may be imposed by any court on the state
32 or its officers or employees, an appointed or elected official,
33 public employee, public agency as defined in RCW 4.24.470,
34 combination of units of government and its employees as provided in
35 RCW 36.28A.010, nonprofit community-based organization, tribal
36 government entity, tribal organization, or urban Indian organization
37 based on the administration of this grant program or activities

1 carried out within the purview of a grant received under this program
2 except upon proof of bad faith or gross negligence.

--- **END** ---