

Trueblood v. DSHS

Update on Litigation

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WASHINGTON STATE



Ways & Means Committee

Background Information

The Case - Federal class action lawsuit in 2014

- *A.B. by and through Trueblood v DSHS* --“Trueblood”
 - Case challenged unconstitutional delays for competency evaluation and restoration resulting in:
 - 14 days to complete evaluation
 - 7 days to admit for restoration

The Class Members

- Individuals detained in city and county jails awaiting competency services

A Proposed Trueblood Settlement Agreement

On August 16, 2018, the parties in the Trueblood case filed a 53-page proposed settlement agreement:

- Calls for a regional rollout in 3 phases of programs and services intended to reduce the wait times for competency evaluations and restoration services
 - Phase 1: Pierce, Southwest, and Spokane Regions (2019-21)
 - Phase 2: King County (2021-23)
 - Phase 3: The rest of the state (Outside budget and Outlook timeframe)
- ❖ UPDATE: Court granted preliminary approval of an amended agreement on November 1, 2018.

The Agreement Addresses Five Areas

Increased services and programs for class members are broken into five categories:

- Competency Evaluations
- Competency Restorations
- Crisis Triage and Diversion Supports
- Education and Training
- Workforce Development

Competency Evaluations

- Proposed statutory changes to reduce the number of people ordered into competency evaluations.
- 18 additional forensic evaluators, 13 must be recruited between July 1, 2019 and June 30, 2020 with the rest hired by June 30, 2021. (**\$5.2M per biennium**)
- The Agency will utilize forensic data to determine ongoing need for evaluators to maintain compliance and meet demand

Competency Restorations

- Proposed statutory changes to reduce the number people ordered into competency restorations
- Community based outpatient restoration services
- Forensic Navigators to assist class members in diversion and outpatient restoration
- Opening of 92 additional forensic beds at the two hospitals as funded in the Capital Budget (**\$48M per biennium**)
- Closure of Maple Lane and Yakima by 2024.

Crisis Triage and Diversion Supports

- Increased capacity for stabilization or triage facilities for Phase 1
 - At least 16 beds in Spokane (**\$6M per biennium**)
 - Enhancements to existing facilities in Southwest and Pierce
 - Needs Assessment for Phase 2 and gaps analysis for Phase 1 regions
- Short-term housing vouchers deployed to Crisis Facilities (14-28 days)
- Residential slots for people transitioning out of Crisis Facilities
- Additional \$3M for 2019-21 for mental health field response programs
- Expansion of Mobile Crisis Teams (24 hour- 7 day availability)

Crisis Triage and Diversion Supports – Continued

- Development of a model for identifying high utilizers
- Provision of intensive case management services to high utilizers
- Services do not duplicate services offered through current programs
- At least six months of services, to include:
 - Engagement services
 - Housing supports
 - Transportation assistance
 - Other supports

Education and Training

- Expansion of Crisis Intervention Training (CIT) for law enforcement officers
 - Ensure 25% of phased region receive 40 hour CIT enhanced course through Criminal Justice Training Commission (**\$300-600K**)
 - Ensure non-DOC Corrections Officers and 911 dispatchers receive at least 8 hours of CIT.
 - Contract with resources to provide education and technical assistance to jails around diversion and stabilization, utilizing peer specialists.
 - Pre and Post booking Diversion
 - Identification of need and access to treatment
 - Continuity of care
 - Use of segregation
 - Release planning

Workforce Development

- Develop an enhanced peer support program
 - Include specialized training in criminal justice system
 - Explore obtaining federal funding
- Utilize Peer Support Specialists for systems developed throughout agreement
- Hire or contract for Workforce Development Specialists to assess need and target areas for:
 - Training programs
 - Certification programs
 - Possible degree programs

Trueblood Fines

Under the Settlement Agreement, fines would be suspended beginning December 1, 2018 :

- Total fines to date are over **\$70M**
- FY18 fines were funded by the Legislature (**\$46.4M**)
- FY19 fines are trending slightly lower (**\$41M**)
- Settlement Agreement would suspend 7 months of FY19 fines (**approx. \$20M**)
- Fines will continue to be calculated under current rates.
- At the end of each phase, the parties will make a joint request to and waive fines not already reduced to judgment.
- Suspension of contempt fines will only include any inpatient fines which are more than 90% of the total monthly fines.

What else do we know?

- The Court has preliminarily approved a settlement agreement as of November 1, 2018
 - Notification to class members of the agreement.
 - Fairness hearing scheduled for December 11, 2018.
- The agreement commits the executive branch, but does not commit the Legislature to any particular appropriation or legislation
- Insufficient appropriations to implement the agreement would be considered a material breach:
 - Potential to resume litigation
 - Court retains all of its powers of contempt

What are the rough costs of the proposed settlement agreement and other things related to Trueblood?

Description of Costs	2019 Supplemental	2019-21	2021-23	Four Year Outlook
Phase 1 <ul style="list-style-type: none"> Implementation in 3 Regions Operating costs of new capacity from 2018 Capital Budget (92 Forensic beds) 		\$75-85M	> \$115M	Fully Implemented
Phase 2 – King County		\$0M	\$45M	Implemented
Phase 3 – All other Regions		\$0	Likely \$0	Outside the Outlook period
Fines	\$20M thru Nov. 2018	RISK	RISK	RISK
Trueblood Subtotal	\$20M	\$85M	>\$160M	>\$245M
Agency Requests	\$127M	\$245M	\$279	\$524M
Governor 5-Yr Plan	??	??	??	??
Total Magnitude	\$147M	\$330M+	> \$439M+	>\$769M+