

JAN 21 2011

A BILL FOR AN ACT

RELATING TO VETERANS COURT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

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PART I.

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SECTION 1. The legislature finds that the State's prison system is severely overcrowded and that further alternatives to incarceration, including the provision of appropriate treatment and counseling and more intensive supervision, are needed.

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Since September 11, 2001, members of the United States armed forces and reserves and the Hawaii national guard have been engaged in combat in Afghanistan and Iraq at an unprecedented pace. Recent research confirms that a significant number of soldiers--by some estimates, one in five--return home from war with a combat-related mental health condition, such as post-traumatic stress disorder, traumatic brain injury, military sexual trauma, substance abuse, or other mental and emotional health conditions. In addition, judges in Hawaii have reported an increase in cases that involve veterans.

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The first veterans court was established in 2008 in Buffalo, New York. Similar models have subsequently emerged



1 across the country. The goal of these courts is to enhance the
2 effectiveness of the criminal justice system through:

- 3 (1) Early intervention and diversion from incarceration;
- 4 (2) Individualized assessment of problems, including those
5 related to substance abuse;
- 6 (3) Judicial tracking and increased judicial involvement
7 in monitoring treatment participation using incentives
8 for compliance and graduated sanctions for
9 noncompliance;
- 10 (4) Encouragement of veterans to accept responsibility for
11 their conduct; and
- 12 (5) Rehabilitation of veterans and their successful
13 reintegration into society.

14 Successful intervention by the temporary veterans court is
15 expected to have a long-term impact upon prison overcrowding,
16 the costs of high rates of incarceration, public safety,
17 probation and parole workloads, and case flow through the
18 judicial system.

19 The purpose of this Act is to address prison overcrowding
20 by establishing a temporary veterans court at the state circuit
21 court level.

22 PART II.



1 SECTION 2. A temporary Hawaii veterans court shall be
2 established and be administered by a circuit court judge of the
3 first circuit to be selected by the chief justice. The
4 activities of the veterans court shall be supported by case
5 management, auxiliary and support services, treatment, and
6 intensive supervision mechanisms.

7 SECTION 3. (a) A veteran is eligible to participate in
8 the Hawaii veterans court if:

- 9 (1) The veteran files a motion to transfer the veteran's
10 case from the regular court system to the Hawaii
11 veterans court;
- 12 (2) The court approves the motion to transfer the case
13 from the regular court system to the Hawaii veterans
14 court; provided that the court determines that the
15 veteran suffers from combat-related mental health
16 problems;
- 17 (3) The prosecuting attorney of the applicable county
18 approves the transfer of the case from the regular
19 court system to the Hawaii veterans court;
- 20 (4) The offense for which the veteran is charged is a
21 misdemeanor, except for an offense under section
22 709-906, Hawaii Revised Statutes; and



1 (5) The veteran has not been previously convicted of:
2 (A) A felony in Hawaii or any other jurisdiction; or
3 (B) An offense under the Uniform Code of Military
4 Justice that would constitute a felony if
5 committed in Hawaii.

6 (b) The victim of the offense for which the veteran is
7 charged shall be eligible to:

8 (1) Attend, provide testimony concerning, and be informed
9 of all applicable proceedings with respect to the
10 veteran; and

11 (2) Receive full and timely restitution, as applicable,
12 from the veteran.

13 (c) The temporary Hawaii veterans court shall have broad
14 authority to:

15 (1) Require participating veterans to:

16 (A) Attend rehabilitation, educational, vocational,
17 medical, mental health, and substance abuse
18 treatment programs; and

19 (B) Participate in peer-to-peer mentoring;

20 (2) Monitor for at least one year:

21 (A) The execution of the treatment plan of the
22 participating veteran; and



1 (B) The participating veteran's compliance with the
2 requirements of the treatment plan, including
3 regular appearances before the Hawaii veterans
4 court to report on the participating veteran's
5 progress.

6 (d) The temporary Hawaii veterans court shall coordinate
7 with the United States Department of Veterans Affairs in
8 assisting participating veterans through medical, mental health,
9 substance abuse, housing, employment services, and counseling.

10 (e) In the case of participating veterans who are members
11 of the reserve components of the armed forces of the United
12 States or members of the Hawaii national guard, the Hawaii
13 veterans court shall work with other members of the
14 participating veteran's military unit in rehabilitating the
15 participating veteran.

16 (f) For the purposes of this part:

17 "Participating veteran" means a veteran who is
18 participating in the Hawaii veterans court program.

19 "Veteran" has the same meaning as set forth in section
20 706-605.1(5), Hawaii Revised Statutes.

21 SECTION 4. (a) The judiciary is authorized to establish
22 the following temporary positions for the purpose of



1 implementing the Hawaii veterans court pursuant to section 3 for
2 fiscal years 2011-2012 and 2012-2013, to be funded from the
3 appropriation authorized in section 7:

- 4 (1) One full-time equivalent (1.0 FTE) social worker V
5 position (\$);
- 6 (2) Two full-time equivalent (2.0 FTE) social worker IV
7 positions (\$ each); and
- 8 (3) One full-time equivalent (1.0 FTE) circuit court clerk
9 II position (\$).

10 (b) The judiciary may seek federal grants and awards and
11 other moneys to fund the temporary Hawaii veterans court.

12 SECTION 5. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so much
14 thereof as may be necessary for fiscal year 2011-2012 and the
15 same sum or so much thereof as may be necessary for fiscal year
16 2012-2013 for staffing, equipment, and other expenses for the
17 implementation and operation of the temporary Hawaii veterans
18 court.

19 The sums appropriated shall be expended by the judiciary
20 for the purposes of this Act.

21 PART III.



1 SECTION 6. Section 706-605.1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§706-605.1 Intermediate sanctions; eligibility; criteria**
4 **and conditions.** (1) The judiciary shall implement alternative
5 programs that place, control, supervise, and treat selected
6 defendants in lieu of a sentence of incarceration.

7 (2) Defendants may be considered for sentencing to
8 alternative programs if they:

9 (a) Have not been convicted of a non-probationable class A
10 felony; and

11 (b) [~~Have not, within~~] Within the previous five years,
12 have not been convicted of a crime involving serious
13 bodily injury or substantial bodily injury as defined
14 by chapter 707.

15 (3) A defendant may be sentenced by a district, family, or
16 circuit court judge to alternative programs.

17 (4) As used in this section, "alternative programs" means
18 programs that, from time to time, are created and funded by
19 legislative appropriation or federal grant naming the judiciary
20 or one of its operating agencies as the expending agency and
21 that are intended to provide an alternative to incarceration.

22 Alternative programs may include:



- 1 (a) House arrest, or curfew using electronic monitoring
2 and surveillance, or both;
- 3 (b) Drug court programs for defendants with assessed
4 alcohol or drug abuse problems, or both;
- 5 (c) Veterans court programs for defendants who are
6 veterans and who meet specific requirements;
- 7 [~~e~~] (d) Therapeutic residential and nonresidential
8 programs, including secure drug treatment facilities;
- 9 [~~d~~] (e) A program of regimental discipline pursuant to
10 section 706-605.5; and
- 11 [~~e~~] (f) Similar programs created and designated as
12 alternative programs by the legislature or the
13 administrative director of the courts for qualified
14 defendants who do not pose significant risks to the
15 community.

16 (5) As used in this section, "veteran" means a person who
17 served on active duty in the armed forces of the United States,
18 a reserve component thereof, or the national guard, who was
19 federally activated and released honorably."

20 PART IV.

21 SECTION 7. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 8. This Act shall take effect on July 1, 2011, and
2 shall be repealed on June 30, 2020; provided that section 706-
3 605.1, Hawaii Revised Statutes, shall be reenacted in the form
4 in which it read on the day before the effective date of this
5 Act.

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INTRODUCED BY:

Will Egan
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Report Title:

Hawaii Veterans Court

Description:

Establishes a temporary Hawaii veterans court within the judiciary.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

