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# A BILL FOR AN ACT

RELATING TO VETERANS COURT.

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

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

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

15           Nationally, the first veterans court was established in  
16 2008 in Buffalo, New York. Similar models have emerged in  
17 counties across California and Oklahoma and in the states of



1 Illinois, Nevada, Texas, and Alaska. Congress has recognized  
2 the success of these courts in effectively rehabilitating  
3 veterans by providing alternatives to incarceration. Based on  
4 the experience of Buffalo, no re-arrests have occurred thus far.

5 The purpose of this Act is to help address the issue of  
6 prison overcrowding at a time when budget constraints prevent  
7 investment in new prison facilities by establishing a veterans  
8 court at the state circuit court level.

9 PART I

10 INTERMEDIATE SANCTIONS

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

13 **"§706-605.1 Intermediate sanctions; eligibility; criteria**  
14 **and conditions.** (1) The judiciary shall implement alternative  
15 programs that place, control, supervise, and treat selected  
16 defendants in lieu of a sentence of incarceration.

17 (2) Defendants may be considered for sentencing to  
18 alternative programs if they:

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



1 (b) Have not, within the previous five years, been  
2 convicted of a crime involving serious bodily injury or  
3 substantial bodily injury as defined by chapter 707.

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

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

11 Alternative programs may include:

12 (a) House arrest, or curfew using electronic monitoring  
13 and surveillance, or both;

14 (b) Drug court programs for defendants with assessed  
15 alcohol or drug abuse problems, or both;

16 (c) Veterans court programs for defendants who are  
17 veterans and who meet specific requirements;

18 [~~(e)~~] (d) Therapeutic residential and nonresidential  
19 programs, including secure drug treatment facilities;

20 [~~(d)~~] (e) A program of regimental discipline pursuant to  
21 section 706-605.5; and



1        ~~[-(e)]~~ (f) Similar programs created and designated as  
2                alternative programs by the legislature or the  
3                administrative director of the courts for qualified  
4                defendants who do not pose significant risks to the  
5                community.

6        (5) As used in this section, "veteran" means a person who  
7 served on active duty in the armed forces of the United States,  
8 a reserve component thereof, or the National Guard, who was  
9 federally activated and released honorably."

10                                PART II

11                                VETERANS COURT

12        SECTION 3. The legislature finds that, due to an increase  
13 in cases in which misdemeanants are veterans of the United  
14 States armed forces, alternatives to incarceration must be  
15 implemented. The institution of a Hawaii veterans court is an  
16 element that may be added to Hawaii's criminal-justice system  
17 that may offer veterans who commit misdemeanors and suffer from  
18 problems related to their combat service, an effective means of  
19 addressing their problems while being held accountable for their  
20 progress through regular treatment and counseling. The goal of  
21 the veterans court is to enhance the effectiveness of the  
22 criminal-justice system through:



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

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

18 The purpose of this part is to authorize the establishment  
 19 of a temporary Hawaii veterans court and related positions.

20 SECTION 4. The Hawaii veterans court shall consist of one  
 21 of the existing first circuit court judges, to be selected by  
 22 the chief justice. The activities of the veterans court shall



1 be supported by related case-management and auxiliary and  
2 support services, treatment, and intensive supervision  
3 mechanisms.

4 SECTION 5. (a) A veteran is eligible to participate in  
5 the Hawaii veterans court; provided that:

6 (1) The veteran files a motion to transfer the veteran's  
7 case from the regular court system to the Hawaii  
8 veterans court;

9 (2) The court approves the motion to transfer the case  
10 from the regular court system to the Hawaii veterans  
11 court;

12 (3) The prosecuting attorney of the applicable county  
13 approves the transfer of the case from the regular  
14 court system to the Hawaii veterans court;

15 (4) The offense for which the veteran is charged is a  
16 misdemeanor other than an offense under section 709-  
17 906, Hawaii Revised Statutes;

18 (5) The veteran has not been previously convicted of a  
19 felony in Hawaii or any other jurisdiction; and

20 (6) The veteran has not, within the previous five years,  
21 been convicted of a crime involving serious bodily



1 injury or substantial bodily injury as defined by  
2 chapter 707.

3 (b) The victim of the offense for which the veteran is  
4 charged shall be eligible:

5 (1) To attend, provide testimony concerning, and be  
6 informed of all applicable proceedings with respect to  
7 the veteran; and

8 (2) For full and timely restitution, as applicable, from  
9 the veteran.

10 (c) The Hawaii veterans court shall have broad authority  
11 to:

12 (1) Require participating veterans to:

13 (A) Attend rehabilitation, educational, vocational,  
14 medical, mental-health, and substance-abuse-  
15 treatment programs; and

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

17 (2) Monitor for at least one year:

18 (A) The execution of the treatment plan of the  
19 participating veteran; and

20 (B) The participating veteran's compliance with the  
21 requirements of the treatment plan, including  
22 regular appearances before the Hawaii veterans



1 court to report on the participating veteran's  
2 progress.

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

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

14 (f) For the purposes of this part:

15 "Participating veteran" means a veteran who is  
16 participating in the Hawaii veterans court.

17 "Veteran" means a person who served on active duty in the  
18 armed forces of the United States, a reserve component thereof,  
19 or the National Guard, who was federally activated and released  
20 honorably.





1 SECTION 6. (a) The judiciary is authorized to establish  
2 the following temporary positions for the purpose of  
3 implementing section 3 for fiscal year 2010-2011:

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 Hawaii veterans court.

12 SECTION 7. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 8. This Act shall take effect on July 1, 2010, and  
15 shall be repealed on ; provided that section 706-605.1,  
16 Hawaii Revised Statutes, shall be re-enacted in the form in  
17 which it read on the day before the effective date of this Act.



**Report Title:**

Hawaii Veterans Court

**Description:**

Establishes a temporary Hawaii Veterans Court within the  
Judiciary to help address prison overcrowding. (HB1942 HD1)

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

