

JAN 20 2010

S.B. NO. 2136

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 from Buffalo, no re-arrests have occurred thus
5 far.

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

10 PART I. 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

21 (b) Have not, within the previous five years, been
22 convicted of a crime involving serious bodily injury.



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

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

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

10 Alternative programs may include:

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

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

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

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

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

21 ~~[(e)]~~ (f) Similar programs created and designated as
22 alternative programs by the legislature or the



1 administrative director of the courts for qualified
2 defendants who do not pose significant risks to the
3 community.

4 (5) As used in this section, "veteran" means a person who
5 has served continuously for at least two years in the armed
6 forces of the United States, a reserve component thereof, or the
7 National Guard and has not been dishonorably discharged or
8 released therefrom."

9 PART II. VETERANS COURT

10 SECTION 3. The legislature finds that, due to an increase
11 in cases in which misdemeanants are veterans of the United
12 States armed forces, alternatives to incarceration must be
13 implemented. The institution of the Hawaii veterans court is
14 viewed as one element that may be added to Hawaii's criminal-
15 justice system that may offer veterans who commit misdemeanors
16 and who often suffer from problems related to their combat
17 service an effective means of addressing their problems while
18 being held accountable for their progress through regular
19 treatment and counseling. The goal of the veterans court is to
20 enhance the effectiveness of the criminal-justice system
21 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 the veterans court is expected
14 to have a long-term influence upon prison overcrowding, the
15 costs of high rates of incarceration, the improvement of public
16 safety, probation and parole workloads, and case flow through
17 the judicial system.

18 The purpose of this part is to authorize the establishment
19 of the 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, except for an offense under section 709-
17 906, Hawaii Revised Statutes; and

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

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



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

4 (2) For full and timely restitution, as applicable, from
5 the veteran.

6 (c) The Hawaii veterans court shall have broad authority
7 to:

8 (1) Require participating veterans to:

9 (i) Attend rehabilitation, educational, vocational,
10 medical, mental-health, and substance-abuse-
11 treatment programs; and

12 (ii) Participate in peer-to-peer mentoring;

13 (2) Monitor for at least one year:

14 (i) The execution of the treatment plan of the
15 participating veteran; and

16 (ii) The participating veteran's compliance with the
17 requirements of the treatment plan, including
18 regular appearances before the Hawaii veterans
19 court to report on the participating veteran's
20 progress.

21 (d) The Hawaii veterans court shall coordinate with the
22 United States Department of Veterans Affairs in assisting



1 participating veterans through medical, mental-health,
2 substance-abuse, housing, and employment services and
3 counseling.

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

10 (f) For the purposes of this part:

11 "Participating veteran" means a veteran who is
12 participating in the Hawaii veterans court.

13 "Veteran" means a person who has served continuously for at
14 least two years in the armed forces of the United States, a
15 reserve component thereof, or the National Guard and has not
16 been dishonorably discharged or released therefrom.

17 SECTION 6. (a) The judiciary is authorized to establish
18 the following temporary positions for the purpose of
19 implementing section 3 for fiscal year 2010-2011 and to be
20 funded from the appropriation authorized in section 5:

21 (1) One full-time equivalent (1.0 FTE) social worker V
22 position (\$);



1 (2) Two full-time equivalent (2.0 FTE) social worker IV
2 positions (\$ each); and

3 (3) One full-time equivalent (1.0 FTE) circuit court clerk
4 II position (\$).

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

7 SECTION 7. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ or so much
9 thereof as may be necessary for fiscal year 2010-2011 for
10 staffing, equipment, and other expenses for the implementation
11 and operation of the temporary Hawaii veterans court.

12 The sum appropriated shall be expended by the judiciary for
13 the purposes of this Act.

14 SECTION 8. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 9. This Act shall take effect on July 1, 2010, and
17 shall be repealed on ; provided that section 706-605.1,
18 Hawaii Revised Statutes, shall be re-enacted in the form in
19 which it read on the day before the effective date of this Act.

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Michael K. Hahn

INTRODUCED BY:

Will Egan

[Signature]

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Report Title:

Hawaii Veterans Court

Description:

Establishes a temporary Hawaii Veterans Court within the Judiciary to help address prison overcrowding.

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