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# A BILL FOR AN ACT

RELATING TO A VETERANS TREATMENT COURT.

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

1 PART I

2 SECTION 1. After September 11, 2001, members of the United  
3 States armed forces and reserves and the Hawaii national guard  
4 were engaged in combat in Afghanistan and Iraq at an  
5 unprecedented pace. Recent research confirms that a significant  
6 number of soldiers--by some estimates, one in five--return home  
7 from war with a combat-related mental health condition, such as  
8 post-traumatic stress disorder, traumatic brain injury, sexual  
9 trauma, substance abuse, or other mental and emotional health  
10 conditions. In addition, judges in Hawaii have reported an  
11 increase in cases that involve veterans.

12 The first veterans court was established in 2008 in  
13 Buffalo, New York. Similar models have subsequently emerged  
14 across the country. The goal of these courts is to enhance the  
15 effectiveness of the criminal justice system through:

- 16 (1) Early intervention and diversion from incarceration;  
17 (2) Individualized assessment of problems, including those  
18 related to substance abuse;



- 1           (3) Judicial tracking and increased judicial involvement
- 2                   in monitoring treatment participation using incentives
- 3                   for compliance and graduated sanctions for
- 4                   noncompliance;
- 5           (4) Encouragement of veterans to accept responsibility for
- 6                   their conduct; and
- 7           (5) Rehabilitation of veterans and their successful
- 8                   reintegration into society.

9           The legislature finds that the State's prison system is

10 severely overcrowded and that further alternatives to

11 incarceration, including the provision of appropriate treatment

12 and counseling and more intensive supervision, are needed.

13 Successful intervention by the temporary veterans treatment

14 court is expected to have a long-term positive impact on prison

15 overcrowding, the costs of high rates of incarceration, public

16 safety, probation and parole workloads, and case flow through

17 the judicial system.

18           The purpose of this Act is to establish a temporary

19 veterans treatment court at the state circuit court level.



1 PART II

2 SECTION 2. (a) A temporary Hawaii veterans treatment  
3 court shall be established and administered by a circuit court  
4 judge of the first circuit to be selected by the chief justice.

5 (b) A veteran shall be eligible to participate in the  
6 Hawaii veterans treatment court if:

7 (1) The veteran is arrested for or charged with a felony  
8 or misdemeanor offense;

9 (2) The court before which the veteran appears finds that  
10 the veteran suffers from a service-related brain  
11 injury, mental illness, or mental disorder, including  
12 post-traumatic stress disorder, substance abuse, and  
13 chemical dependency;

14 (3) The prosecuting attorney of the applicable county  
15 approves the transfer of the case from the regular  
16 court system to the Hawaii veterans treatment court;  
17 provided that if the veteran is on probation with the  
18 court before which the veteran appears, the court also  
19 grants the transfer; and

20 (4) The court before which the veteran appears allows the  
21 veteran to choose whether to proceed through the



1 veterans treatment court or through the traditional  
2 criminal justice system.

3 (c) A victim shall have the right to:

4 (1) Attend the applicable proceedings of the Hawaii  
5 veterans treatment court;

6 (2) Provide testimony when and if appropriate; and

7 (3) Receive full and timely restitution as applicable by  
8 order of the court.

9 (d) The temporary Hawaii veterans treatment court may  
10 substitute a treatment plan model for traditional court  
11 processing for all participating veterans. The veterans  
12 treatment court shall include the following components:

13 (1) Emphasis on early identification and timely placement  
14 of eligible veterans;

15 (2) Cooperation between prosecution and defense counsel to  
16 promote public safety and protect participating  
17 veterans' due process rights, using a nonadversarial  
18 approach;

19 (3) Integration of alcohol or drug treatment and mental  
20 health services with the processing of cases in the  
21 criminal justice system;



- 1 (4) Access for participating veterans to a continuum of  
2 alcohol or drug, mental health, and other treatment  
3 and rehabilitation services, including veteran peer  
4 mentors;
- 5 (5) Frequent testing of participating veterans for alcohol  
6 and other drugs;
- 7 (6) Establishment of a coordinated strategy by the  
8 veterans treatment court to respond to a participating  
9 veteran's compliance or noncompliance with the  
10 veteran's treatment regimen;
- 11 (7) Ongoing interaction by the veterans treatment court  
12 judge with each participating veteran;
- 13 (8) Establishment of a monitoring and evaluation system to  
14 determine the extent to which the veterans treatment  
15 court achieves its goals, and the court's  
16 effectiveness;
- 17 (9) Engagement by the veterans treatment court staff in  
18 continuing interdisciplinary education; and
- 19 (10) Encouragement by the veterans treatment court of  
20 partnerships between the court, the United States  
21 Department of Veterans Affairs, community-based  
22 organizations, public agencies, and other entities, to



1 create local support and promote the veterans  
2 treatment court's effectiveness.

3 (e) For the purposes of this part:

4 "Participating veteran" means a veteran who is  
5 participating in the Hawaii veterans treatment court program.

6 "Veteran" has the same meaning as set forth in section  
7 706-605.1(5), Hawaii Revised Statutes.

8 SECTION 3. (a) The judiciary is authorized to establish  
9 the following temporary positions for the purpose of  
10 implementing the Hawaii veterans treatment court pursuant to  
11 section 2 of this Act for fiscal year 2012-2013, to be funded  
12 from the appropriation authorized in section 4 of this Act:

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

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

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

19 (b) The judiciary may seek federal grants and awards and  
20 other moneys to fund the temporary Hawaii veterans treatment  
21 court.



1 SECTION 4. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so much  
3 thereof as may be necessary for fiscal year 2012-2013 for  
4 staffing, equipment, and other expenses for the implementation  
5 and operation of the temporary Hawaii veterans treatment court.

6 The sum appropriated shall be expended by the judiciary for  
7 the purposes of this Act.

8 PART III

9 SECTION 5. Section 706-605.1, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "**§706-605.1 Intermediate sanctions; eligibility; criteria**  
12 **and conditions.** (1) The judiciary shall implement alternative  
13 programs that place, control, supervise, and treat selected  
14 defendants in lieu of a sentence of incarceration.

15 (2) Defendants may be considered for sentencing to  
16 alternative programs if they:

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

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



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

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

9 (a) House arrest, or curfew using electronic monitoring  
10 and surveillance, or both;

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

13 (c) Veterans treatment court programs for defendants who  
14 are veterans and who meet specific requirements;

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

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

19 [~~(e)~~] (f) Similar programs created and designated as  
20 alternative programs by the legislature or the  
21 administrative director of the courts for qualified





1 defendants who do not pose significant risks to the  
2 community.

3 (5) As used in this section, "veteran" means a person who  
4 served on active duty in the armed forces of the United States,  
5 a reserve component thereof, or the national guard, and who was  
6 federally activated and discharged, without regard to the  
7 discharge status."

8 PART IV

9 SECTION 6. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect on July 1, 2012, and  
12 shall be repealed on June 30, 2021; provided that section 706-  
13 605.1, Hawaii Revised Statutes, shall be reenacted in the form  
14 in which it read on the day before the effective date of this  
15 Act.



**Report Title:**

Hawaii Veterans Court; Appropriation

**Description:**

Establishes a temporary Hawaii veterans treatment court within the judiciary. Appropriates funds. Effective July 1, 2012, and repealed on June 30, 2021. (HB2798 HD1)

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

