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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 In 2008, the first veterans court was established 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.

20   PART II

21           SECTION 2. (a) A temporary Hawaii veterans treatment  
22           court shall be established and administered by a circuit court



1 judge of the first judicial circuit to be selected by the chief  
2 justice.

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

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

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

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 treatment court;  
15 provided that if the veteran is on probation with the  
16 court before which the veteran appears, the court  
17 shall have the final determination on admittance after  
18 weighing any objections from the prosecuting attorney;  
19 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 the prosecuting attorney and  
16 defense attorney to promote public safety and protect  
17 participating veterans' due process rights, using a  
18 nonadversarial 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 temporary Hawaii veterans treatment court  
11 pursuant to section 2 of this Act for fiscal year 2012-2013, to  
12 be funded from the appropriation authorized in section 4 of this  
13 Act:

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

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

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

20 (b) The judiciary may seek federal grants and awards and  
21 other moneys to fund the temporary Hawaii veterans treatment  
22 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) Temporary veterans treatment court programs for  
14 defendants who are veterans and who meet specific  
15 requirements;

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

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

20 [~~(e)~~] (f) Similar programs created and designated as  
21 alternative programs by the legislature or the  
22 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 upon release from active duty is  
7 determined to be eligible for services from the United States  
8 Department of Veterans Affairs."

9 PART IV

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

12 SECTION 7. This Act shall take effect on January 7, 2059,  
13 and shall be repealed on June 30, 2021; provided that section  
14 706-605.1, Hawaii Revised Statutes, shall be reenacted in the  
15 form in which it read on the day before the effective date of  
16 this Act.



**Report Title:**

Hawaii Veterans Court; Appropriation

**Description:**

Establishes the Temporary Hawaii Veterans Treatment Court within the First Judicial Circuit Court. Appropriates funds.

Effective January 7, 2019, and repealed on June 30, 2021.

(HB2798 HD2)

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

