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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 treatment court was established  
13 in 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 recognizes that the State's prison system  
10 is 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 temporary 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 temporary Hawaii veterans treatment court  
6 program.

7 "Veteran" has the same meaning as set forth in section  
8 706-605.1(5), Hawaii Revised Statutes.

9 SECTION 3. (a) The judiciary may establish the following  
10 temporary positions for the purpose of implementing the  
11 temporary Hawaii veterans treatment court pursuant to section 2  
12 of this Act for fiscal year 2012-2013, to be funded from the  
13 appropriation authorized in section 4 of this 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 \$1 or so much thereof  
3 as may be necessary for fiscal year 2012-2013 for staffing,  
4 equipment, and other expenses for the implementation and  
5 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, as provided in Act \_\_\_\_\_, Session Laws  
16 of Hawaii 2012;

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 served on active duty in the armed forces of the United States,  
6 a reserve component thereof, or the national guard, and who was  
7 federally activated and discharged, without regard to the  
8 discharge status."

9 PART IV

10 SECTION 6. The judiciary shall submit a plan of  
11 implementation for the temporary Hawaii veterans treatment court  
12 to the senate committee on ways and means in time for the  
13 anticipated costs to be included in the judiciary's budget for  
14 supplemental appropriations budget bill. The plan shall include  
15 information on anticipated costs of operation and additional  
16 personnel and additional staffing that may be required of the  
17 county prosecuting attorneys and the public defender to staff  
18 the new court. The judiciary shall enlist the assistance of the  
19 city and county of Honolulu prosecuting attorney and public  
20 defender in formulating the plan of implementation.



1 PART V

2 SECTION 7. Statutory material to be repealed is bracketed  
3 and stricken. New statutory material is underscored.

4 SECTION 8. This Act shall take effect on January 7, 2059;  
5 provided that on June 30, 2021, this Act shall be repealed and  
6 section 706-605.1, Hawaii Revised Statutes, shall be reenacted  
7 in the form in which it read on the day before the effective  
8 date of this Act.



**Report Title:**

Hawaii Veterans Court; Appropriation

**Description:**

Establishes the temporary Hawaii veterans treatment court within the first judicial circuit court. Makes appropriation to the judiciary. Requires judiciary to submit plan of implementation to the senate committee on ways and means for budget purposes. Effective January 7, 2059, and repealed on June 30, 2021. (SD1)

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

