
A BILL FOR AN ACT

RELATING TO VETERANS COURT.

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

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PART I

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

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

The first veterans court was established in 2008 in Buffalo, New York. Similar models have subsequently emerged



1 across the country. The goal of these courts is to enhance the
2 effectiveness of the criminal justice system through:

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

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

19 The purpose of this Act is to address prison overcrowding
20 by establishing a temporary veterans court at the state circuit
21 court level.

22 **PART II**



1 SECTION 2. A temporary Hawaii veterans court shall be
2 established and administered by a circuit court judge of the
3 first circuit to be selected by the chief justice. The
4 activities of the veterans court shall be supported by case
5 management, auxiliary and support services, treatment, and
6 intensive supervision mechanisms.

7 SECTION 3. (a) A veteran is eligible to participate in
8 the Hawaii veterans court if:

9 (1) The veteran files a motion to transfer the veteran's
10 case from the regular court system to the Hawaii
11 veterans court;

12 (2) The court approves the motion to transfer the case
13 from the regular court system to the Hawaii veterans
14 court; provided that the court determines that the
15 veteran suffers from combat-related mental health
16 problems;

17 (3) The prosecuting attorney of the applicable county
18 approves the transfer of the case from the regular
19 court system to the Hawaii veterans court;

20 (4) The offense for which the veteran is charged is a
21 misdemeanor, except for an offense under section
22 709-906, Hawaii Revised Statutes; and



- 1 (5) The veteran has not been previously convicted of:
 - 2 (A) A felony in Hawaii or any other jurisdiction; or
 - 3 (B) An offense under the Uniform Code of Military
 - 4 Justice that would constitute a felony if
 - 5 committed in Hawaii.
- 6 (b) The victim of the offense for which the veteran is
- 7 charged shall be eligible to:
 - 8 (1) Attend, provide testimony concerning, and be informed
 - 9 of all applicable proceedings with respect to the
 - 10 veteran; and
 - 11 (2) Receive full and timely restitution, as applicable,
 - 12 from the veteran by order of the court.
 - 13 (c) The temporary Hawaii veterans court shall have broad
 - 14 authority to:
 - 15 (1) Require the participating veteran to:
 - 16 (A) Attend rehabilitation, educational, vocational,
 - 17 medical, mental health, and substance abuse
 - 18 treatment programs; and
 - 19 (B) Participate in peer-to-peer mentoring;
 - 20 (2) Monitor for at least one year:
 - 21 (A) The execution of the treatment plan of the
 - 22 participating veteran; and



1 (B) The participating veteran's compliance with the
2 requirements of the treatment plan, including
3 regular appearances before the Hawaii veterans
4 court to report on the participating veteran's
5 progress.

6 (d) The temporary Hawaii veterans court shall coordinate
7 with the United States Department of Veterans Affairs in
8 assisting participating veterans through medical, mental health,
9 substance abuse, housing, employment services, and counseling
10 assistance.

11 (e) In the case of participating veterans who are members
12 of the reserve components of the armed forces of the United
13 States or members of the Hawaii national guard, the Hawaii
14 veterans court shall work with other members of the
15 participating veteran's military unit in rehabilitating the
16 participating veteran.

17 (f) For the purposes of this part:

18 "Participating veteran" means a veteran who is
19 participating in the Hawaii veterans court program.

20 "Veteran" has the same meaning as set forth in section
21 706-605.1(5), Hawaii Revised Statutes.



1 SECTION 4. (a) The judiciary is authorized to establish
2 the following temporary positions for the purpose of
3 implementing the Hawaii veterans court pursuant to section 3 of
4 this Act for fiscal years 2011-2012 and 2012-2013, to be funded
5 from the appropriation authorized in section 5 of this Act:

- 6 (1) One full-time equivalent (1.0 FTE) social worker V
7 position (\$);
8 (2) Two full-time equivalent (2.0 FTE) social worker IV
9 positions (\$ each); and
10 (3) One full-time equivalent (1.0 FTE) circuit court clerk
11 II position (\$).

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

14 SECTION 5. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so
16 much thereof as may be necessary for fiscal year 2011-2012 and
17 the same sum or so much thereof as may be necessary for fiscal
18 year 2012-2013 for staffing, equipment, and other expenses for
19 the implementation and operation of the temporary Hawaii
20 veterans court.

21 The sums appropriated shall be expended by the judiciary
22 for the purposes of this Act.



PART III

SECTION 6. Section 706-605.1, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

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

(4) As used in this section, "alternative programs" means programs that, from time to time, are created and funded by legislative appropriation or federal grant naming the judiciary or one of its operating agencies as the expending agency and



1 that are intended to provide an alternative to incarceration.

2 Alternative programs may include:

3 (a) House arrest, or curfew using electronic monitoring
4 and surveillance, or both;

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

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

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

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

13 ~~[(e)]~~ (f) Similar programs created and designated as
14 alternative programs by the legislature or the
15 administrative director of the courts for qualified
16 defendants who do not pose significant risks to the
17 community.

18 (5) As used in this section, "veteran" means a person who
19 served on active duty in the armed forces of the United States,
20 a reserve component thereof, or the national guard, and who was
21 federally activated and released honorably."

22 **PART IV**



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

3 SECTION 8. This Act shall take effect on July 1, 2012, and
4 shall be repealed on June 30, 2021; provided that section 706-
5 605.1, Hawaii Revised Statutes, shall be reenacted in the form
6 in which it read on the day before the effective date of this
7 Act.

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Report Title:

Hawaii Veterans Court; Appropriation

Description:

Establishes a temporary Hawaii veterans court within the judiciary. Makes an appropriation. Effective 7/1/2012; repeals 6/30/2021. (SD1)

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