

## *The Judiciary, State of Hawaii*

### **Testimony to the Senate Committee on Ways and Means**

Senator David Y. Ige, Chair  
Michelle N. Kidani, Vice Chair

Thursday, March 29, 2012, 9:00 a.m.  
State Capitol, Conference Room 211

by

Rodney Maile  
Administrative Director of Courts  
State of Hawaii

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**Bill No. and Title:** House Bill No. 2798, H.D. 3, S.D. 1, Relating to a Veterans Treatment Court

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 Effective January 7, 2019, and repealed on June 30, 2021.

#### **Judiciary's Position:**

The Judiciary strongly supports House Bill No. 2798, HD3, S.D. 1. There are over 100 Veteran Treatment Courts in the United States providing treatment counseling and reintegration services to veterans with significant drug or mental health issues. These veterans find themselves in the judicial system as a result of their addictions or mental injuries which are the result of their service to our country. The track record of these courts speaks for itself with many achieving a zero recidivism rate among their graduates. These courts like the one proposed for Hawaii work well for veterans because whenever possible they tailor their support and treatment to the unique needs of those that have served our country. The Bill as drafted gives the Judiciary the flexibility it needs to serve as many veterans as possible.

The Judiciary requests that funding in the amount of \$175,000.00 per year be placed in the Bill in order to fund this initiative at the level called for in the Bill. If the Legislature decides to appropriate funding for this court, the Judiciary would request that the additional funding provided by the Legislature in this area not replace existing allocations or affect other budgetary requests already submitted by the Judiciary.

Thank you for the opportunity to testify in support of this bill.

DATE: 27 March 2012

ATTN: Committee on Ways and Means

HEARING DATE: Thursday, 29 March 2012

HEARING PLACE: Conference Room 211, State Capitol; 415 South Beretania Street

TIME: 9:00am

HB 2798 HD3: **RELATING TO A VETERANS TREATMENT COURT.** Establishes the Temporary Hawaii Veterans Treatment Court within the First Judicial Circuit Court. Appropriates funds. Effective January 7, 2059, and repealed on June 30, 2021. (HB2798 HD3) appropriates funds.

WEB: <http://www.capitol.hawaii.gov/>

Note to clerk: (Please print 4 copies including original)

Good morning, Honorable chairpersons and committee members. I am Dr. Kenneth Hirsch, Director of the Traumatic Stress Disorders Program of the Department of Veterans Affairs, Pacific Islands Health Care System (VAPIHCS). I am also a Veteran. I appreciate this opportunity to **strongly support HB 2798 HD3**, a bill for the establishment of a temporary **Veterans' Treatment Court** in Hawaii.

Ladies and Gentleman, currently, there are 1.7 million Veterans of these wars in the United States (Dept of VA). A 12 March 2007 Journal of Internal Medicine article estimates that as many as 25-30% of returning Veterans suffer from mental illness, with the lowest estimates in other studies being in the range of 18-20%, including primarily posttraumatic stress disorder (PTSD), depression, other anxiety disorders and substance use disorders. Compounding this is the incidence of postconcussion syndrome, more commonly referred to as traumatic brain injury (TBI). The substance use disorders most commonly develop as a result of the Veteran's efforts at self-medication. Sadly, the symptoms of certain of these combat injuries sometimes lead directly to behaviors that involve Veterans in the judicial system, this being especially true of PTSD and postconcussion syndrome, and the secondary substance use disorders. Each of these causes impairment in judgment in two different and equally important realms:

1. Interpretation of situations: there is increased and unrealistic perception of risk, danger and threat. This presents as hypervigilance and paranoia, distrust of others and is characterized further by a lack of recognition of the person's inaccurate interpretation.
2. Selection of behavioral responses, with a tendency towards immediate lashing out, either verbal or physical, with clear deficits in the ability to consider consequences of behavior before acting, and further difficulties in understanding the inappropriateness of one's actions.

Both of these involve problems in what is referred to as "executive functioning": this includes functions like sequential planning, thinking before acting, exercising self-control over impulses, attention & concentration and insight into one's own thinking and behavior.

It is the purpose of a Veteran's Treatment Court to divert Veterans who have run afoul of the law as a result of such injuries and consequent difficulties into treatment rather than incarceration. Such a proposition is predicated upon:

1. The belief that if the violations came about as a result of injuries sustained in the service of our country, the Veteran deserves treatment for the injury and special consideration in terms of legal consequences.
2. The experience of other such special courts has shown that such diversion results in a far lower rate of recidivism than that demonstrated by other offenders, and by Veteran offenders who do not enter such diversion programs.
3. The cost savings generated by such special courts are far in excess of the costs of the courts and other supportive infrastructure.
4. The majority of the cost of treatment is transferred from the State and local community to the federal government (Department of Veterans Affairs), by virtue of agreements with the Department of Veterans Affairs, Pacific Islands Health Care System, which has already committed to provide the treatment necessary for all eligible Veterans – a service which it cannot provide to incarcerated Veterans.

I would like to offer a few other supporting points for consideration:

1. At the beginning of the calendar year, there were 408 incarcerated Veterans in Hawaii jails, excluding any in federal facilities. Based upon a screening of probation records, it is estimated that there are currently between 30 and 50 potential Veteran participants in such a diversion program.
2. While a Veterans' Treatment Court would require funding, with incarceration costs of roughly \$50,000 per year, successful diversion of only six Veterans would not only pay for the Court, but provide savings for the State.
3. In Buffalo, statistics from the longest operating Veterans' Treatment Court indicate that:
  - a. 90% of enrollees complete the diversion program successfully.
  - b. The recidivism rate for those completing the program is zero percent (0%).
4. A Veterans' Treatment Court is different from the existing Mental Health and Drug Courts. Indeed, Judge Russell, in Buffalo, who started the first Veterans' Treatment Court, was the presiding judge for the Mental Health and Drug Courts in Buffalo, and found that the special characteristics of both the Veterans and the combination of service-related injuries were far more effectively dealt with by a distinct special court than by attempting to utilize the existing Mental Health and Drug Courts. The Veterans' Treatment Court does not represent a duplication of services or processes; the problems addressed by the Veterans' Treatment Court are qualitatively different from those addressed by Mental Health and Drug Courts, and the interventions are similarly different. For example, Mental Health Court does not address either Posttraumatic Stress Disorder (PTSD) or traumatic brain injury. No existing special courts include a mentorship program, a critical component of the Veterans Treatment Court, and one which the VA-PIHCS has committed to developing.

At a prior Committee hearing, the question was posed as to the level of financial contribution the VA would be making with regards to the proposed Veterans' Treatment Court were the Bill to be implemented. I include the following as cost estimates in response to that question:

Mental Health care may include both outpatient and residential care for PTSD, as well as depression, substance abuse, etc.

Programmatic costs:

- Salary/benefits for the Veteran Justice Outreach staff member and the Veterans' Treatment Court Mentorship Coordinator (GS11 and GS12 respectively): estimated at \$85,280 and \$114,081 respectively, for a total of \$199,361.

Per patient costs are roughly,

- Outpatient, evidence-based treatment for PTSD: \$ 3,200
- Medication management for one year: \$ 2,000
- Other groups and individual sessions for one year: \$ 4,900
- Substance abuse treatment, *if necessary*, for one year: \$ 3,500
- Residential PTSD treatment, *if necessary*: \$ 24,000

The above programmatic and per patient costs exclude:

- Costs of inpatient psychiatric treatment if such should become necessary.
- Vocational rehabilitation and supported employment services and disability payments for which the participant may well be eligible, and for which he/she would not be eligible if incarcerated.

In terms of the costs that would accrue to the State of Hawaii, the last estimates that I have regarding the estimated budget is less than an appropriation of \$250,000 per year.

Assuming the following:

- Estimated incarceration cost slightly in excess of \$50,000 per year;
- Success rate of approximately 85% (as opposed to the 90% rate observed elsewhere);
- Participation by only 30 of the estimated currently eligible 40 Veterans in the judicial system currently (higher participation rate is anticipated);

It is estimated that savings would accrue to the State slightly in excess of \$1,000,000 annually:

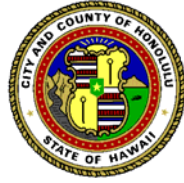
- Cost if incarcerated for one year:  $30 \times \$50,000 = \$1,500,000$
- Cost assuming 85% success rate (15% failing and becoming incarcerated): \$225,000
- Anticipated annual savings: \$1,275,000  
With a program cost of even \$300,000 to the State, success with only 6 of 30 participants would yield a break even situation for the State.

I would emphasize that the fiscal savings do not even begin to address the social savings that have been demonstrated in similar programs nationwide.

Ladies and gentlemen, thank you for giving me the opportunity to testify on behalf of this very important piece of legislation, which I urge you to both pass and fund.

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March 29, 2012

The Honorable David Ige, Chair  
Senate Committee on Ways and Means

Twenty-Sixth Legislature  
Regular Session of 2012  
State of Hawaii

**Testimony of Mayor Peter Carlisle  
H.B. 2798, S.D. 1, Relating to a Veterans Treatment Court**

Chairs Ige and Members of the Committee:

I would like to submit the following testimony in strong support of H.B. 2798, S.D. 1.

As the only state hosting all five branches of the military, and as home to a rising number of veterans returning from Afghanistan and Iraq, I believe Hawaii should join the more than 70 other jurisdictions across the country that have established Veterans Courts since 2008.

In my 2011 State of the City Address, I underscored our community's responsibilities to veterans who often face special challenges and noted that :

Research links substance abuse and combat related mental illness to unprecedented number of veterans appearing in our courts to face charges stemming directly from these issues. The U.S. Department of Justice estimates that 1.16 million of all adults arrested last year, or nearly 10 percent, served in the military. Today, an estimated 60 percent of the 140,000 veterans in prison have a substance abuse problem . . . . Veterans courts put the bonds of military service to good use. They enlist other veterans as volunteer mentors to help overcome participants' resistance to treatment and to point them in the right direction. Volunteer veteran mentors and veterans affairs staff are often present during court proceedings to support the defendants and guide them in accessing military benefits that might help solve substance abuse, health, marriage, employment and financial problems.

In the same spirit, the Women’s Legislative Caucus dedicated its 2012 legislative package to female veterans. The Women’s Caucus package includes four resolutions supporting the establishment of a Veterans Court in Hawaii (HCR 20, HR 14, SCR 7, SR 7). In announcing the package, the Caucus explained: “This year’s series of bills and resolutions are dedicated to women veterans who have served our country abroad, and continue to live at home, despite the many trials they face post-deployment.”<sup>1</sup> And on behalf of the Caucus, Senator Rosalyn Baker said: “Today we have an unprecedented number of women serving in our armed forces. These women are amongst the most dedicated and resilient of people, bravely serving their community at home and from afar . . . . It is important that we ensure that all of our service members, regardless of gender, have access to the appropriate care and services.”<sup>2</sup>

At the national level, Veterans Courts are recognized as an important strategy to address homelessness among veterans who suffer from service-related mental health or substance abuse problems:

Veterans have high rates of Post-Traumatic Stress Disorder (PTSD), traumatic brain injury (TBI), and sexual trauma, especially for women. Returning Veterans from Iraq and Afghanistan have even higher rates possibly associated with repeated deployments. These factors significantly impact the ability to form trusting relationships. PTSD may also contribute to substance abuse problems and relapse. Other mental health problems and/or TBI may result in cognitive impairments (difficulties with concentration or remembering tasks), difficulties in social relationships, controlling temper or impulses, or other effects that may create barriers to employment and stable relationships.<sup>3</sup>

\* \* \*

People with serious mental illness who are homeless are often incarcerated when they cannot get the care and treatment they need. People with mental illness experiencing homelessness also frequently end up in the emergency room and hospitalized. These are expensive interventions that do not improve long-term prospects for people with mental illness who have no place to live. Effective targeted outreach, discharge planning, and specialized courts are proven to help keep people out of emergency rooms, hospitals, and jails and to connect people to housing, support, or for those who need it, supportive housing.<sup>4</sup>

For these reasons, the *Federal Strategic Plan to Prevent and End Homelessness* – developed through Cabinet-level collaboration among the U.S. Departments of Veterans Affairs, Justice, Health and Human Services, Housing and Urban Development, and others – specifically

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<sup>1</sup> [www.hawaiiisenatemajority.com/2012/01/womens-legislative-caucus-dedicates-2012-legislative-package-to-female-veterans](http://www.hawaiiisenatemajority.com/2012/01/womens-legislative-caucus-dedicates-2012-legislative-package-to-female-veterans)

<sup>2</sup> [www.hawaiiisenatemajority.com/2012/01/womens-legislative-caucus-dedicates-2012-legislative-package-to-female-veterans](http://www.hawaiiisenatemajority.com/2012/01/womens-legislative-caucus-dedicates-2012-legislative-package-to-female-veterans)

<sup>3</sup> *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness 2010*, p. 20.

<sup>4</sup> *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness 2010*, p. 47 (emphasis added).

recommends:

Increase the number of jail diversion courts at the state and local levels that are linked to housing and support including those specifically for Veterans, those experiencing homelessness, or people with mental health issues or drug abuse problems.<sup>5</sup>

Honolulu is already fostering the strong collaboration necessary for an effective Veterans Court – for example, in December 2011, the U.S. Department of Veterans Affairs Pacific Islands Health Care System convened a large and diverse group of veterans, representatives of City and State government and the Judiciary, law enforcement and health professionals, and community organizations, to continue planning for a Veterans Court in Honolulu.

By pairing troubled veterans with volunteer veteran mentors, Veterans Courts help veterans regain the sense of discipline and camaraderie they had in uniform. Veterans Courts help steer troubled veterans onto a more positive course by linking them with counseling, treatment, and other government benefits they may have overlooked, or been unaware of, when they return home. Given the enormous costs associated with the criminal justice system and incarceration, it makes sound financial sense to invest in an initiative that has proven, in other jurisdictions, to help divert veterans away from court and prisons, and toward the services and support they need to get back on track.

I respectfully request your favorable consideration of this bill, and I thank you for this opportunity to testify before you.

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<sup>5</sup> *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness 2010*, p. 48 (emphasis added).

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Twenty-sixth State Legislature  
Regular Session of 2012  
State of Hawai'i

March 29, 2012

RE: H.B. 2798, H.D. 3, S.D. 1; RELATING TO VETERANS TREATMENT COURT.

Chair Oshiro, Vice Chair Lee, and members of the House Committee on Finance, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony expressing strong concerns on H.B. 2798, H.D. 3, S.D. 1. The purpose of this bill is to appropriate funds from the general revenues of the State of Hawai'i to establish a Hawai'i Veterans Treatment Court within the Judiciary.

Drug treatment and mental health treatment are already available for veterans in Hawai'i's specialty courts such as Drug Court. Moreover, there is no caseload justification to create another specialty court. The department strongly believes that valuable state resources should be invested in existing programs that need support especially in areas where there is a high volume of cases that face possible dismissal due to congestion of the courts such as the family court of the First Judicial Circuit, which conducts jury trials for misdemeanor domestic violence and domestic violence-related cases. We have a bill that requests for two additional judges to conduct jury trials for misdemeanor domestic violence and domestic violence-related cases. In regards to that issue, the judiciary testified against the additional staffing and explained that there are no available court rooms.

Second, there is no appropriation for the funding of deputy prosecuting attorneys who will need to be assigned to the Hawai'i Veterans Treatment Court. We are currently struggling financially to place deputy prosecuting attorneys in the existing courts. Moreover, we are requesting funds from the state to help us get deputy prosecuting attorneys and staff to provide service that will comply with other state mandates such as Career Criminal Prosecution, Drug Court, Hawaii's Opportunity Probation with Enforcement (HOPE), and Victim Witness Assistance.

Although the intent for a Hawai'i Veterans Treatment Court is good, we recommend deferring H.B. 2798, H.D. 3, S.D. 1 because we need to fund judges, deputy prosecuting attorneys, and staff that are servicing our existing courts and state mandates. Thank you.