



# LATE TESTIMONY

## **Vietnam Veterans Post 10583 of the Veterans of Foreign Wars**

%, 94-1020 Puana Street, Waipahu Hawaii 96797-4303

February 2, 2012

Testimony of Rene A. Berthiaume, USMC, Commander VFW Post 10583, Vietnam Veterans' Post

House Committee on Health

Representative Aquino and Representative Yamane and Committee Members

Thank you for the opportunity to testify in support of HB2798 with suggested amendments. We are very much support of the establishment of a veterans court in Hawaii. As mentioned in the bill text the first Vet Court was established in 2008 in Buffalo, NY., with as many as 40-50 currently in operation throughout the country. These courts have been very successful in turning around the lives of many of our veterans before they enter the criminal justice system. We should not have to reinvent the wheel here as there are many existing community programs in place that provide rehab, education, vocational, medical, mental health, substance abuse, job training and placement, counseling, etc. These programs can help the eligible veteran return to being a productive member of our community, as well as providing relief to our over-crowded prison system and would be an overall benefit to our community.

In addition, Section 3 (a) calls for the staffing of 3 new full-time worker positions within the Judiciary. We are aware that these new positions could be a very hard sell during these tight budget times. The VA has committed the efforts of the Veterans Justice Officer (VJO) to assist and support this effort.

Also a Federal Bill, S902 submitted Senator Inouye and Senator John Kerry would provide 25 million dollars to assist participating judiciaries in the establishment of Vet Courts.

Therefore, we are hoping that the funding for these positions will not be a deterrent to the establishment of a Vet Court. Be aware that the VA has committed the efforts of the VSO to assist and support the effort.

Thank you again for allowing me to testify and I would be happy to answer any questions you may have.

# LATE TESTIMONY

STATE OF HAWAII  
DEPARTMENT OF DEFENSE

TESTIMONY ON HOUSE BILL 2798, RELATING TO VETERANS  
TREATMENT COURT

PRESENTATION TO THE

COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS

AND

COMMITTEE ON HEALTH

BY

MR. RONALD P. HAN  
DIRECTOR OF OFFICE OF VETERANS SERVICES

February 2, 2012

Chairs Aquino & Yamane and Committee members:

I am Ron Han, Director of the Office of Veterans Services (OVS). I appreciate this opportunity to provide testimony in support of the concepts in House Bill 2798.

This measure would provide for the establishment of a temporary Veterans Treatment Court in Hawaii. As noted, there are over 80 Veterans Treatment Courts and growing nation-wide. States which have instituted these programs have very low recidivism rates, have garnered successes in dealing with veterans for various issues, have established viable monitoring links towards rehabilitation, and reduced the number of incarcerated veterans, thereby reducing our overall prison population.

We defer to the agency with direct responsibility for implementation of the Veterans' Treatment Court program.

The OVS supports the concepts and intent expressed in this measure as long as its implementation does not impact or replace the priorities set forth in the Executive Supplemental Budget for Fiscal Years 2012-2013.

Thank you for this opportunity to provide testimony on behalf of Hawaii's Veterans and their families in support of HB 2798.



DoD-State Liaison Office

**OFFICE OF THE DEPUTY ASSISTANT SECRETARY OF DEFENSE  
(MILITARY COMMUNITY AND FAMILY POLICY)**

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**LATE TESTIMONY**

**Chair Henry J.C. Aquino, Committee on Public Safety and Military Affairs**  
**Chair Ryan I. Yamane, Committee on Health**  
**February 1, 2012**

**Testimony of  
Laurie Crehan, Ed.D.  
Quality of Life Regional Liaison  
Office of the Assistant Secretary of Defense, Military Community & Family Policy  
DoD-State Liaison Office**

**HB 2798 Relating to Veterans Treatment Court**

**The Department of Defense State Liaison Office** operates under the direction of the Under Secretary of Defense for Personnel and Readiness, and the Deputy Assistant Secretary for Military Community and Family Policy. Our mission is to be a resource to state policymakers as they work to address quality of life issues of military families.

**Testimony**

Chair Aquino, Chair Yamane, and members of the House Public Safety and Military Affairs Committee and House Health Committee, on behalf of the Deputy Assistant Secretary of Defense, I would like to thank you for the opportunity to submit testimony today on HB 2798, a bill relating Veterans Treatment Court. My name is Laurie Crehan. I am with the Department of Defense State Liaison Office which operates under the direction of the Under Secretary of Defense for Personnel and Readiness, and the Deputy Assistant Secretary of Defense for Military Community and Family Policy.

The Veterans Treatment Court program is an innovative and effective means for veterans afflicted with mental health and/or substance addiction to obtain treatment and services to resolve outstanding criminal offenses and stabilize their lives. VTCs show great promise to help afflicted Service members and veterans transition back to their communities and families in a healthful and productive manner. The policy in HB 2798 will certainly help our veterans address some of their underlying problems that may lead to criminal offenses.

**Background**

- Rand Corporation reported as of 2008, 31% of the 1.8 million who have served in Iraq and Afghanistan have a service-related mental health condition or traumatic brain injury (TBI).
- A 2002 U.S. Department of Justice report indicated that veterans comprise 9.3% of all persons incarcerated: 70% were in jail for non-violent offenses; 82% of veterans in jail were

*Improving the Lives of Military Members and their Families*

eligible for Veterans Affairs (VA) services (65% honorably discharged and 17% general discharge with honorable conditions); and 18% of jailed veterans were homeless.

### **Best Practices**

DoD is not seeking to impart mandates that would stifle innovation. The intent of the best practices below is to promote a framework within which courts have the flexibility to develop constructive models that work best for them locally to achieve positive outcomes:

- Participants have protections:
  - Selected by a team of court members including prosecuting and defense attorneys;
  - Participation is voluntary and their constitutional rights are retained;
  - Commensurate with completion of appropriate treatment and services, all qualifying charges are reduced or dismissed, including where appropriate, more serious charges. Where charges are dismissed, public access to the record is limited, where appropriate as provided by state or local law, including expunging records.
  
- Selection is open to the extent possible:
  - Allowed cross jurisdictional authority to maximize opportunities for veterans to participate and to take full advantage of available treatment services;
  - Open to veterans and members of the Military Services: Active Duty, Guard and Reserve;
  - Not limited to veterans/Service members who have had combat experience; and
  - Based on criteria that prudently consider service discharge and prohibited offenses to optimize treatment opportunity for the veteran, as well as ensure the safety of the veteran's family and the community.
  
- VTCs are focused on treatment:
  - Coordinated with state and Federal VA, veteran service organizations, community-based service providers, and local agencies to assess the needs of and provide veterans with appropriate housing, treatment, services, job training, and benefits; and
  - Include mentoring sessions with other veterans.

While HB 2798 addresses some of the above principles, it is missing some key best practices. We started this year tracking state legislation on this issue and find that many states are establishing laws that include the principles above or have amended their statutes to include these best practices. The proposed HB 2798 currently limits participation to only veterans who suffered brain injury or suffer mental illness as a result of combat. In 2010, California revised their criminal code (AB 674) in order to allow all Service members (veterans and those still serving) to be able to have their cases transferred to a veterans treatment court if, in the view of the court, their condition stemmed from military service. These subtle changes allow for recognition of brain injuries and mental trauma that:

- May have resulted from incidents outside of combat, and eliminates having to differentiate whether an individual's service and duty location was associated with combat (i.e. if an individual is located in a combat area does that determine "combat" related when compared to an individual who may have had post traumatic stress disorder as a result of performing search and recovery after an aircraft accident or natural disaster, or PTSD as a result of sexual assault); and

- May be impacting an individual who is still in the Reserves or National Guard and not have received a discharge.

Likewise, we would recommend that the legislation allow for other characterizations of discharge for veterans than honorable. The legislation does not necessarily have to make a statement about the characterization of a veteran's discharge. If necessary, we would recommend as some other states have done (such as Illinois), that veterans with a General (under honorable conditions) and Under Other than Honorable Conditions (UOTHC) be considered.

We recommend that any proposal consider broader definitions to allow courts the ability to discern when a change in venue to a VTC would be productive for the individual and the community. Similarly, we believe that the wording in 706.605.1 would be more appropriate if it allowed for alternative sentencing when there has been some history of violent criminal behavior. The current standard refers to "a crime involving serious bodily injury or substantial bodily injury as defined by chapter 707." This would be a consistent standard rather than limiting consideration to "a felony or misdemeanor offense that does not involve the use or threatened use of force or violence." Many of the manifestations of TBI and PTSD may involve a violent episode – such as a bar fight.

We understand that Hawaii has a work group that has been studying best practices from around the country and we imagine they will want to incorporate some of these ideas as they implement Veterans Treatment Courts. We wanted to attend this hearing, not to mandate what Hawaii's Veterans Treatment Courts will look like, but to share what we have learned about Veterans Courts and what we believe as best practices as a result of reading existing state statutes and professional papers to include a resolution from the American Bar Association on this topic. We applaud Hawaii's decision to establish Veterans Treatment Courts as an opportunity to redirect the lives of Service members and Veterans who have mental health issues as a result of their military service.

We appreciate the opportunity to submit testimony. I am prepared to answer any questions you might have.

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