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## A BILL FOR AN ACT

RELATING TO A TREATMENT COURT FOR VETERANS AND ACTIVE DUTY  
SERVICE MEMBERS.

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

1 PART I

2 SECTION 1. Since the events of September 11, 2001, members  
3 of the military, reserves, and national guard have been engaged  
4 in combat in Afghanistan and Iraq at unprecedented levels.  
5 Hawaii is the only state that hosts all five branches of the  
6 United States armed forces. As such, a significant number of  
7 veterans and active duty service members, many of whom suffer  
8 from a service-related health condition such as post-traumatic  
9 stress disorder, traumatic brain injury, or substance abuse,  
10 reside in our State. Sadly, such conditions affect those who  
11 have served in a combat zone, as well as those who have not; and  
12 they are associated with veterans, as well as those who are  
13 still actively serving our country. Not surprisingly, Hawaii  
14 has seen an increase in court cases that involve veterans and  
15 active duty service members.

16 In 2008, the first veterans treatment court was established



1 in Buffalo, New York. Similar models have since emerged across  
2 the country. The goal of these courts is to enhance the  
3 effectiveness of the criminal justice system through:

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

15 The legislature recognizes that the State's prison system  
16 is severely overcrowded and that further alternatives to  
17 incarceration are needed, including the provision of appropriate  
18 treatment, counseling, and more intensive supervision.  
19 Successful intervention by a temporary veterans treatment court  
20 is expected to have a long-term positive impact on prison  
21 overcrowding, the costs of high rates of incarceration, public



1 safety, probation and parole workloads, and case flow through  
2 the judicial system. The legislature finds that extending the  
3 concept of a specialized veterans treatment court to include  
4 active duty service members would allow for earlier intervention  
5 and treatment of service-related conditions, and thus enhance  
6 the mission and purpose of the treatment court.

7 The purpose of this Act is to establish a temporary  
8 veterans and active duty military treatment court at the state  
9 circuit court level.

10 PART II

11 SECTION 2. (a) A temporary Hawaii veterans and active  
12 duty military treatment court shall be established and  
13 administered by a circuit court judge of the first judicial  
14 circuit who is selected by the chief justice.

15 (b) Veterans and active duty service members shall be  
16 eligible to participate in the temporary Hawaii veterans and  
17 active duty military treatment court if:

18 (1) The veteran or active duty service member is arrested  
19 for or charged with a class C felony or misdemeanor  
20 offense, except an offense under section 709-906;

21 (2) The court before which the veteran or active duty  
22 service member appears finds that the veteran or



1 active duty service member suffers from a service-  
2 related brain injury, service-related mental illness,  
3 or service-related mental disorder, including post-  
4 traumatic stress disorder, substance abuse, and  
5 chemical dependency;

6 (3) The prosecuting attorney of the applicable county  
7 approves the transfer of the case from the regular  
8 court system to the Hawaii veterans and active duty  
9 military treatment court; provided that if the veteran  
10 or active duty service member is on probation with the  
11 court before which the veteran or active duty service  
12 member appears, the court shall have the final  
13 determination on admittance after weighing any  
14 objections from the prosecuting attorney; and

15 (4) The court before which the veteran or active duty  
16 service member appears allows the veteran or active  
17 duty service member to choose whether to proceed  
18 through the veterans and active duty military  
19 treatment court or through the traditional criminal  
20 justice system.

21 (c) A victim shall have the right to:



- 1           (1) Attend the applicable proceedings of the Hawaii
- 2           veterans and active duty military treatment court;
- 3           (2) Provide testimony when and if appropriate; and
- 4           (3) Receive full and timely restitution as applicable by
- 5           order of the court.

6           (d) The temporary Hawaii veterans and active duty military  
7 treatment court may substitute a treatment plan model for  
8 traditional court processing for all participating veterans and  
9 active duty service members. The veterans and active duty  
10 military treatment court shall include the following components:

- 11           (1) Emphasis on early identification and timely placement
- 12           of eligible participants;
- 13           (2) Cooperation between the prosecuting attorney and
- 14           defense attorney to promote public safety and protect
- 15           participants' due process rights, using a
- 16           nonadversarial approach;
- 17           (3) Integration of alcohol or drug treatment and mental
- 18           health services with the processing of cases in the
- 19           criminal justice system;
- 20           (4) Access for participants to a continuum of alcohol or
- 21           drug, mental health, and other treatment and



- 1           rehabilitation services, including veteran peer  
2           mentors;
- 3           (5) Frequent testing of participants for alcohol and other  
4           drugs;
- 5           (6) Establishment of a coordinated strategy by the  
6           veterans and active duty military treatment court to  
7           respond to a participant's compliance or noncompliance  
8           with the participant's treatment regimen;
- 9           (7) Ongoing interaction by the veterans and active duty  
10          military treatment court judge with each participant;
- 11          (8) Establishment of a monitoring and evaluation system to  
12          determine the extent to which the veterans and active  
13          duty military treatment court achieves its goals, and  
14          the court's effectiveness;
- 15          (9) Engagement by the veterans and active duty military  
16          treatment court staff in continuing interdisciplinary  
17          education; and
- 18          (10) Encouragement by the veterans and active duty military  
19          treatment court of partnerships between the court, the  
20          United States Department of Veterans Affairs,  
21          community-based organizations, public agencies, and



1 other entities, to create local support and promote  
2 the court's effectiveness.

3 (e) For the purposes of this part:

4 "Active duty service member" has the same meaning as set  
5 forth in section 706-605.1(6).

6 "Participant" means a veteran or active duty service member  
7 who is participating in the temporary Hawaii veterans and active  
8 duty military treatment court program.

9 "Veteran" has the same meaning as set forth in section  
10 706-605.1(5).

11 SECTION 3. (a) The judiciary may establish the following  
12 temporary positions for the purpose of implementing the  
13 temporary Hawaii veterans and active duty military treatment  
14 court pursuant to section 2 of this Act for fiscal year 2013-  
15 2014, to be funded from the appropriation authorized in section  
16 4 of this Act:

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

19 (2) Two full-time equivalent (2.0 FTE) social worker IV  
20 positions (\$ each);

21 (3) One full-time equivalent (1.0 FTE) circuit court clerk  
22 II position (\$ ); and



1 (4) Any other position(s) necessary to effectuate the  
2 purposes of this Act.

3 (b) The judiciary may seek federal grants and awards and  
4 other moneys to fund the temporary Hawaii veterans and active  
5 duty military treatment court.

6 SECTION 4. There is appropriated out of the general  
7 revenues of the State of Hawaii the sum of \$ or so much  
8 thereof as may be necessary for fiscal year 2013-2014 for  
9 staffing, equipment, and other expenses for the implementation  
10 and operation of the temporary Hawaii veterans and active duty  
11 military treatment court.

12 The sum appropriated shall be expended by the judiciary for  
13 the purposes of this Act.

14 PART III

15 SECTION 5. Section 706-605.1, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§706-605.1 Intermediate sanctions; eligibility; criteria**  
18 **and conditions.** (1) The judiciary shall implement alternative  
19 programs that place, control, supervise, and treat selected  
20 defendants in lieu of a sentence of incarceration.

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





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

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

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

9 (4) As used in this section, "alternative programs" means  
10 programs that, from time to time, are created and funded by  
11 legislative appropriation or federal grant naming the judiciary  
12 or one of its operating agencies as the expending agency and  
13 that are intended to provide an alternative to incarceration.  
14 Alternative programs may include:

15 (a) House arrest, or curfew using electronic monitoring  
16 and surveillance, or both;

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

19 (c) Temporary veterans and active duty military treatment  
20 court programs for defendants who are veterans or  
21 active duty service members and who meet specific  
22 requirements;



1       [~~(e)~~] (d) Therapeutic residential and nonresidential  
2            programs, including secure drug treatment facilities;  
3       [~~(d)~~] (e) A program of regimental discipline pursuant to  
4            section 706-605.5; and  
5       [~~(e)~~] (f) Similar programs created and designated as  
6            alternative programs by the legislature or the  
7            administrative director of the courts for qualified  
8            defendants who do not pose significant risks to the  
9            community.

10       (5) As used in this section, "veteran" means a person who  
11       served on active duty in the armed forces of the United States,  
12       a reserve component thereof, or the national guard, and who was  
13       federally activated and discharged, without regard to the  
14       discharge status.

15       (6) As used in this section, "active duty service member"  
16       means a person currently on active duty in the armed forces of  
17       the United States, a reserve component thereof, or the national  
18       guard."

19   PART IV

20       SECTION 6. Statutory material to be repealed is bracketed  
21       and stricken. New statutory material is underscored.



# H.B. NO. 308

1 SECTION 7. This Act shall take effect on July 1, 2013;  
 2 provided that on June 30, 2022, this Act shall be repealed and  
 3 section 706-605.1, Hawaii Revised Statutes, shall be reenacted  
 4 in the form in which it read on the day before the effective  
 5 date of this Act.

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# H.B. NO. 308

**Report Title:**

Hawaii Veterans and Active Duty Military Court; Appropriation

**Description:**

Establishes the Temporary Hawaii Veterans and Active Duty Military Treatment Court within the First Judicial Circuit Court. Appropriates funds.

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

