

JAN 18 2013

A BILL FOR AN ACT

RELATING TO VETERANS COURT.

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

1 PART I.

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

6 Recent research confirms that a significant number of
7 soldiers--by some estimates, one in five--return home from war
8 with a combat-related mental health condition, such as post-
9 traumatic stress disorder, traumatic brain injury, sexual
10 trauma, substance abuse, or other mental and emotional health
11 conditions. In addition, judges in Hawaii have reported an
12 increase in cases involving veterans.

13 The first veterans court was established in 2008 in
14 Buffalo, New York. Similar models have subsequently emerged
15 across the country. The goal of these courts is to enhance the
16 effectiveness of the criminal justice system through:

17 (1) Early intervention and diversion from incarceration;



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

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

16 The purpose of this Act is to address prison overcrowding
17 by establishing a temporary veterans court at the state circuit
18 court level.

19 PART II.

20 SECTION 2. A temporary Hawaii veterans court shall be
21 established and administered by a circuit court judge of the
22 first circuit to be selected by the chief justice. The

1 activities of the veterans court shall be supported by case
2 management, auxiliary and support services, treatment, and
3 intensive supervision mechanisms.

4 SECTION 3. (a) A veteran shall be eligible to participate
5 in the Hawaii veterans court if:

6 (1) The veteran files a motion to transfer the veteran's
7 case from the regular court system to the Hawaii
8 veterans court;

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

14 (3) The prosecuting attorney of the applicable county
15 approves the transfer of the case from the regular
16 court system to the Hawaii veterans court;

17 (4) The offense for which the veteran is charged is a
18 misdemeanor, except for an offense under section
19 709-906, Hawaii Revised Statutes; and

20 (5) The veteran has not been previously convicted of:

21 (A) A felony in Hawaii or any other jurisdiction; or



1 (B) An offense under the Uniform Code of Military
2 Justice that would constitute a felony if
3 committed in Hawaii.

4 (b) The victim of the offense for which the veteran is
5 charged shall be eligible to:

6 (1) Attend, provide testimony concerning, and be informed
7 of all applicable proceedings with respect to the
8 veteran; and

9 (2) Receive full and timely restitution, as applicable,
10 from the veteran by order of the court.

11 (c) The temporary Hawaii veterans court shall have broad
12 authority to:

13 (1) Require the participating veteran to:

14 (A) Attend rehabilitation, educational, vocational,
15 medical, mental health, and substance abuse
16 treatment programs; and

17 (B) Participate in peer-to-peer mentoring;

18 (2) Monitor for at least one year:

19 (A) The execution of the treatment plan of the
20 participating veteran; and

21 (B) The participating veteran's compliance with the
22 requirements of the treatment plan, including



1 regular appearances before the Hawaii veterans
2 court to report on the participating veteran's
3 progress.

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

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

15 (f) For the purposes of this part:

16 "Participating veteran" means a veteran who is
17 participating in the Hawaii veterans court program.

18 "Veteran" has the same meaning as set forth in section
19 706-605.1(5), Hawaii Revised Statutes.

20 SECTION 4. (a) The judiciary is authorized to establish
21 the following temporary positions for the purpose of
22 implementing the Hawaii veterans court pursuant to section 3 of



1 this Act for fiscal years 2013-2014 and 2014-2015, to be funded
2 from the appropriation authorized in section 5 of this Act:

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

5 (2) Two full-time equivalent (2.0 FTE) social worker IV
6 positions (\$ each); and

7 (3) One full-time equivalent (1.0 FTE) circuit court clerk
8 II position (\$).

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

11 SECTION 5. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so much
13 thereof as may be necessary for fiscal year 2013-2014 and the
14 same sum or so much thereof as may be necessary for fiscal year
15 2014-2015 for staffing, equipment, and other expenses for the
16 implementation and operation of the temporary Hawaii veterans
17 court.

18 The sums appropriated shall be expended by the judiciary
19 for the purposes of this Act.

20 PART III.

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



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

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

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

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

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

15 (4) As used in this section, "alternative programs" means
16 programs that, from time to time, are created and funded by
17 legislative appropriation or federal grant naming the judiciary
18 or one of its operating agencies as the expending agency and
19 that are intended to provide an alternative to incarceration.
20 Alternative programs may include:

21 (a) House arrest, or curfew using electronic monitoring
22 and surveillance, or both;



- 1 (b) Drug court programs for defendants with assessed
- 2 alcohol or drug abuse problems, or both;
- 3 (c) Veterans court programs for defendants who are
- 4 veterans and meet specific requirements;
- 5 [~~(e)~~] (d) Therapeutic residential and nonresidential
- 6 programs, including secure drug treatment facilities;
- 7 [~~(d)~~] (e) A program of regimental discipline pursuant to
- 8 section 706-605.5; and
- 9 [~~(e)~~] (f) Similar programs created and designated as
- 10 alternative programs by the legislature or the
- 11 administrative director of the courts for qualified
- 12 defendants who do not pose significant risks to the
- 13 community.

14 (5) As used in this section, "veteran" means a person who
15 served on active duty in the armed forces of the United States,
16 a reserve component thereof, or the national guard and who was
17 federally activated and discharged honorably."

18 PART IV.

19 SECTION 7. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 8. This Act shall take effect on July 1, 2013, and
22 shall be repealed on June 30, 2022; provided that section 706-



1 605.1, Hawaii Revised Statutes, shall be reenacted in the form
2 in which it read on the day before the effective date of this
3 Act.

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INTRODUCED BY: Will Eyo

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Report Title:

Hawaii Veterans Court; Circuit Court

Description:

Establishes a temporary Hawaii veterans court within the judiciary.

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

