

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 112
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there is no comprehensive law that addresses the complex challenges of crimes committed by veterans with post-traumatic stress disorder (PTSD), traumatic brain injuries (TBIs), or other mental illnesses. There are no diversion programs that seek to address their unique problems. Today, there are thousands of veterans entering the criminal justice system. Many of these individuals suffer from combat-related mental illnesses which materially affect the crimes they commit.

According to a report by the RAND Corporation, it is estimated that 300,000 American soldiers who have served in Afghanistan and Iraq (nearly 20 percent of the troops deployed in those operations) now suffer from PTSD or major depression. However, only slightly more than half have sought treatment. Of the veterans who need treatment for PTSD and major depression, only 53 percent received help. About 320,000 services members may have experienced a TBI during deployment. A TBI was described as ranging from a mild concussion to a severe penetrating head wound. Only 43 percent reported that they were evaluated by a physician for the injury. Additionally, researchers found that roughly 19 percent of returning service members report that they experienced a possible TBI while deployed, with seven percent reporting a probable TBI and current PTSD or major depression.

This legislation is intended to ensure that veterans and military personnel with combat-related mental health issues get the treatment they need and that men and women who serve our country are not strapped with a criminal conviction that will negatively impact their ability to get a job, housing, and provide for their families.

This legislation requires judges in county courts, statutory courts, and district courts trying criminal cases to establish deferred prosecution programs for military service members and veterans. If the defendant successfully completes the treatment program and other conditions imposed by the court, the criminal action against the defendant can be dismissed and the arrest record expunged.

C.S.S.B. 112 relates to the establishment of veterans court programs in this state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle E, Title 7, Health and Safety Code, by adding Chapter 617, as follows:

Sec. 617.001. VETERANS COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) Defines "veterans court program."

(b) Requires the court in which a criminal case is pending, if a defendant successfully completes a veterans court program after notice to the attorney representing the state and a hearing in the veterans court at which that court determines that a dismissal is in the best interest of justice, to dismiss the criminal action against the defendant and enter an order of expunction under Chapter 55

(Expunction of Criminal Records), Code of Criminal Procedure, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an adjudication of guilt.

Sec. 617.002. **AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.** (a) Authorizes the commissioners court of a county to establish a veterans court program for persons arrested for, charged with, or convicted of any misdemeanor or felony offense. Provides that a defendant is eligible to participate in a veterans court program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program and if the court in which the criminal case is pending finds that the defendant:

(1) is a veteran or current member of the United States armed forces, including a member of the reserves, national guard, or state guard; and

(2) suffers from a brain injury or mental illness that resulted from the defendant's military service in a combat zone or other similar hazardous duty area and materially affected the defendant's criminal conduct at issue in the case.

(b) Requires the court in which the criminal case is pending to allow an eligible defendant to choose whether to proceed through the veterans court program or otherwise through the criminal justice system.

(c) Provides that proof of matters described by Subsection (a) may be submitted to the court in which the criminal case is pending in any form the court determines to be appropriate, including military service and medical records, previous determinations of a disability by a veteran's organization or by the United States Department of Veterans Affairs, testimony or affidavits of other veterans or service members, and prior determinations of eligibility for benefits by any state or county veterans office. Requires that the court's findings accompany any docketed case.

Sec. 617.003. **DUTIES OF VETERANS COURT.** (a) Requires a veterans court program established under this chapter to:

(1) ensure a person eligible for the program is provided legal counsel before volunteering to proceed through the program and while participating in the program,

(2) allow a participant to withdraw from the program at any time before a trial on the merits has been initiated,

(3) provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant, and

(4) ensure that the jurisdiction of the veterans court continues for a period of not less than six months but does not continue beyond the period of community supervision for the offense charged.

(b) Requires that a veterans court program established under this chapter make, establish, and publish local procedures to ensure maximum participation of eligible defendants in the county or counties in which those defendants reside.

(c) Provides that this chapter does not prevent the initiation of procedures under Chapter 46B (Incompetency to Stand Trial), Code of Criminal Procedure.

Sec. 617.004. **ESTABLISHMENT OF REGIONAL PROGRAM.** Authorizes the commissioners courts of two or more counties to elect to establish a regional veterans court program under this chapter for the participating counties.

Sec. 617.005. OVERSIGHT. (a) Authorizes the lieutenant governor and the speaker of the house of representatives to assign to appropriate legislative committees duties relating to the oversight of veterans court programs established under this chapter.

(b) Authorizes a legislative committee or the governor to request the state auditor to perform a management, operations, or financial or accounting audit of a veterans court program established under this chapter.

(c) Requires a veterans court program established under this chapter to notify the criminal justice division of the governor's office before or on implementation of the program and provide information regarding the performance of the program to that division on request.

Sec. 617.006. FEES. (a) Authorizes a veterans court program established under this chapter to collect from a participant in the program a reasonable program fee not to exceed \$1,000, and a testing, counseling, and treatment fee in an amount necessary to cover the costs of any testing, counseling, or treatment performed or provided under the program.

(b) Authorizes fees collected under this section to be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the program. Requires that the fees be based on the participant's ability to pay and used for only for purposes specific to the program.

Sec. 617.007. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE REQUIREMENT. (a) Authorizes the judge or magistrate administering a veterans court program established under this chapter, notwithstanding Section 16 (relating to the authorization of a judge to require a defendant to perform certain work), Article 42.12 (Community Supervision), Code of Criminal Procedure, to encourage participation in the program established under this chapter, to suspend any requirement that, as a condition of community supervision, a participant in the program work a specified number of hours at a community service project or projects.

(b) Authorizes a judge or magistrate, on a participant's successful completion of a veterans court program, to excuse the participant from any condition of community supervision previously suspended under Subsection (a).

SECTION 2. Amends Article 55.01(b), Code of Criminal Procedure, to authorize a district court, except as provided by Subsection (c) (relating to prohibiting a court from ordering the expunction of records and files relating to an arrest for an offense for which a person is subsequently acquitted), to expunge all records and files relating to the arrest of a person who has been arrested for commission of a felony or misdemeanor under the procedure established under Article 55.02 (Procedure for Expunction) if the person is tried for the offense for which the person was arrested, convicted of the offense, and acquitted by the court of criminal appeals, or in connection with the offense for which the person was arrested or charged, successfully completes a veterans court program established under Chapter 617, Health and Safety Code, if the court subsequently dismisses the criminal action against the person under Section 617.001(b) of that chapter. Makes nonsubstantive changes.

SECTION 3. Effective date: September 1, 2009.