

Date of Hearing: April 30, 2013

ASSEMBLY COMMITTEE ON VETERANS AFFAIRS  
Al Muratsuchi, Chair  
ACR 36 (Atkins) – As Introduced: March 18, 2013

SUBJECT: Veterans: treatment courts and treatment review calendars

SUMMARY: Encourages the California Superior Courts to consider establishing veterans treatment courts or review calendars. Specifically, this resolution:

Makes the following legislative findings:

- 1) Historically, the State of California has honored the noble sacrifices that members of the Armed Forces have made to protect our freedoms by providing veterans and members of the Armed Forces certain benefits and rehabilitative services;
- 2) California has the largest United States veteran population in the nation, comprised of approximately 2 million armed services veterans, which is 12.3 percent of the nationwide veteran population of nearly 25 million veterans;
- 3) There are approximately 180,000 Operation Enduring Freedom/ Operation Iraqi Freedom (OEF/OIF) theatre veterans in California and 30,000 veterans are returning to California each year;
- 4) Studies have shown that combat services may exact a tremendous psychological toll on members of the Armed Forces who are faced with the constant threat of death or injury over an extended period of time;
- 5) Researchers have shown that a significant number of the 1,600,000 members of the Armed Forces who have served in Iraq or Afghanistan have, or will suffer from, as a result of their military service, mental health injuries, such as post-traumatic stress disorder, traumatic brain injury, depression, anxiety, and acute stress;
- 6) Some studies have shown that as much as 20 percent of the United States veterans who served in Iraq and Afghanistan are returning home with signs of post-traumatic stress disorder or other mental illnesses. Traumatic brain injury often accompanies post-traumatic stress disorder;
- 7) Both physical and mental combat-related injuries often lead to the use of drugs and alcohol to cope with such injuries, which often leads to encounters with the criminal justice system that would not have otherwise occurred without the combat-related injury;
- 8) The vast majority of returning members of the Armed Forces do not have contact with the criminal justice system, and most veterans and members of the military are well-adjusted, contributing members of society, but psychiatrists and law enforcement officials agree that combat-related injuries have led to instances of these service members becoming involved with the criminal justice system;

- 9) Recently, 12 percent of OIF/OEF veterans surveyed reported criminal justice involvement beyond a minor traffic violation. However, only 3 percent of veterans reported having both knowledge of and access to veterans treatment courts, veterans treatment review calendars, or diversion programs from prison available pursuant to Section 1170.9 of the Penal Code;
- 10) A goal of veterans treatment courts and veterans treatment review calendars is to reduce further criminal behavior. This is done to keep troubled veterans out of prison, if they have service-related mental health problems and they allege that the criminal behavior resulted from these problems;
- 11) It is the purpose of veterans treatment courts and veterans treatment review calendars in California to enhance public safety by providing a judicially supervised regimen of treatment intervention to serve involved veterans with unique mental health conditions and other problems stemming from military service; and
- 12) As a grateful state, we must continue to honor the military service of our men and women by attempting to provide them with an alternative to incarceration when feasible, permitting them instead to access proper treatment for mental health and substance abuse problems resulting from military service.
- 13) States that the Assembly and Senate concur that the legislature is not seeking to impart mandates that would stifle innovation, but instead intends to promote a framework within which the superior court in each county has the flexibility to develop a constructive model that works best locally to achieve positive outcomes.
- 14) Declares that the legislature encourages all superior courts to consider establishing veterans treatment courts or veterans treatment review calendars within their jurisdictions to assist troubled veterans who have service-related mental health issues to turn their lives around by identifying them, assessing their needs, connecting them with needed services, and managing their care.

EXISTING LAW:

- 1) Provides that in the case of any person convicted of a criminal offense who would otherwise be sentenced to county jail or state prison and who alleges that he or she committed the offense as a result of post-traumatic stress disorder (PTSD), substance abuse, or psychological problems stemming from service in a combat theater in the United States military, the court shall, prior to sentencing, hold a hearing to determine whether the defendant was a member of the military forces of the United States who served in combat and shall assess whether the defendant suffers from PTSD, substance abuse, or psychological problems as a result of that service. [Penal Code Section 1170.9(a).]
- 2) States that if the court concludes that a defendant convicted of a criminal offense was a member of the military forces of the United States suffering from PTSD, substance abuse, or psychological problems stemming from service in a combat theater and if the defendant is otherwise eligible for probation and the court places the defendant on probation, the court may order the defendant into a local; state; federal; or private, non-profit treatment program for a period not to exceed that which the defendant would have served in state prison or county jail, provided the defendant agrees to participate in the program and the court

determines that an appropriate treatment program exists. [Penal Code Section 1170.9(b).]

- 3) Obligates counties to provide mental health treatment services to members of the military forces of the United States suffering from PTSD, substance abuse, or psychological problems stemming from service in a combat theater only to the extent that resources are available for that purpose. If mental health treatment services are ordered by the court, the county mental health agency shall coordinate appropriate referral of the defendant to the county veterans service officer. The county mental health agency shall not be responsible for providing services outside its traditional scope of services. An order shall be made referring a defendant to a county mental health agency only if that agency has agreed to accept responsibility for the treatment of the defendant. [Penal Code Section 1170.9(c).]

FISCAL EFFECT: None

COMMENTS: According to the author:

California has the largest veteran population of any state with approximately 2 million veterans and 160,000 combat veterans from Iraq & Afghanistan and 30,000 combat veterans expected to return every year for the foreseeable future. As many as 20 percent of these returning veterans have shown signs of mental illness, and many often turn to drugs and alcohol to cope with their injuries. Veterans with service related mental health injuries may come into contact with the criminal justice system as they turn to petty criminal behavior to support a drug or alcohol addiction.

Veterans Treatment Courts identify veterans who have struggled with service related mental health injuries and connect them to the services they need to help turn their lives around. This resolution will memorialize the Legislature's position that every veteran in California should have access to a veteran treatment court.

According to the Committee on Public Safety:

Incarcerated Veterans: A study conducted by the University of California, San Francisco and the San Francisco Veterans Affairs Medical Center has shown that approximately one-third of veterans returning from Iraq received one or more mental health or psychosocial diagnoses. [See *Mental Illness Appears Common among Veterans Returning from Iraq and Afghanistan*, Science Daily (Mar. 13, 2007) <<http://www.sciencedaily.com/releases/2007/03/070313114409.htm>> (as of Mar. 23, 2009).] Another study reported in the New England Journal of Medicine indicates that the rate of PTSD among veterans of the wars in Iraq and Afghanistan increased in a linear manner with increased exposure to combat. [See generally, Hoge, M.D., *Combat Duty in Iraq and Afghanistan, Mental Health Problems, and Barriers to Care* (2004) 351 N. Engl. J. Med., pp. 13-22.]

Three-quarters of veterans in state prisons reported past drug use and one-quarter reported being on drugs at the time of the offense for which they were incarcerated. [Noonan & Mumola, U.S. Dep't of Just., *Veterans in State and Federal Prison*, 2004 (2007) p. 5.] [See also Coté, *Military vet charged with pharmacy holdups blames drug addiction*, San Francisco Chronicle (Sep. 3, 2007) (detailing the experience of an Bosnia veteran who reports a prescription painkiller addiction from a broken hip while in the military, and post-traumatic stress disorder as a result of his combat experience, and the substandard quality of

military medical care, which he says led to his arrest for the holdups of two pharmacies).]

Providing meaningful mental health treatment has been shown to significantly reduce recidivism rates, with studies showing decreases of over 20%. [Aos, Wash. State Inst. For Pub. Pol'y, Evidence-Based Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates (2006).] Likewise, studies have shown a reduction of more than 6% in recidivism rates where meaningful chemical dependency services are provided to prisoners. (*Id.* at pp. 3, 19.) Chemical dependency treatment has also been shown to decrease, at least in the short term, the probability of alcohol dependency by 15% and drug dependency by 22%. (*Id.* at p.4.)

AB 201 of 2011 by Assemblymember Butler would have authorized veteran treatment courts but establishment of such courts was expressly voluntary. AB 201 said, in pertinent part:

Penal Code section 1001.95. (a) Superior courts are hereby authorized to develop and implement veterans courts. Participation by a county shall be voluntary.

Governor Brown vetoed AB 201 not on grounds that veteran treatment courts were bad policy, but because the courts and the state have been struggling with severe fiscal austerity. Although establishment of veteran treatment courts was expressly voluntary he determined the bill would create a "clear expectation...that our courts will establish a new program..." and that in such an austere time it would be better not to place expectations on the courts for new programs.

This measure will memorialize legislative support for veterans treatment courts and review calendars. It expressly encourages but does not require any court system to establish a veteran treatment court or review calendar.

REGISTERED SUPPORT / OPPOSITION:

Support

American Legion, Department of California  
AMVETS, Department of California  
California Association of County Veterans Service Officers  
California State Commanders Veterans Council  
VFW, Department of California  
Vietnam Veterans of America, California State Council

Opposition

None on file.

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