AB 201 (Butler) – Veterans Courts

Introduced January 27, 2011, Enrolled July 25, 2011

Existing law provides for the diversion of specified criminal offenders in alternate sentencing and treatment programs.

This bill would authorize superior courts to develop and implement veterans courts for eligible veterans of the United States military with the objective of, among other things, creation of a dedicated calendar or a locally developed collaborative court-supervised veterans mental health program or system that leads to the placement of as many mentally ill offenders who are veterans of the United States military, including those with post-traumatic stress disorder, traumatic brain injury, military sexual trauma, substance abuse, or any mental health problem stemming from military service, in community treatment as is feasible and consistent with public safety.

The bill would provide that county participation is voluntary. The bill would declare the intent of the Legislature that, where there are statutory requirements for certain education or counseling programs to be included in the terms of probation, the components of those counseling terms would be required to be incorporated into the treatment programs that are designed to treat the underlying psychological disorders rather than requiring them in lieu of the psychological treatments.

Assembly Bill No. 201

Passed the Assembly May 5, 2011

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Chief Clerk of the Assembly

Passed the Senate July 11, 2011

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Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2011, at _____ o'clock ___M.

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Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 2.97 (commencing with Section 1001.95) to Title 6 of Part 2 of the Penal Code, relating to veterans courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 201, Butler. Veterans courts.

Existing law provides for the diversion of specified criminal offenders in alternate sentencing and treatment programs.

This bill would authorize superior courts to develop and implement veterans courts for eligible veterans of the United States military with the objective of, among other things, creation of a dedicated calendar or a locally developed collaborative court-supervised veterans mental health program or system that leads to the placement of as many mentally ill offenders who are veterans of the United States military, including those with post-traumatic stress disorder, traumatic brain injury, military sexual trauma, substance abuse, or any mental health problem stemming from military service, in community treatment as is feasible and consistent with public safety. The bill would provide that county participation is voluntary. The bill would declare the intent of the Legislature that, where there are statutory requirements for certain education or counseling programs to be included in the terms of probation, the components of those counseling terms would be required to be incorporated into the treatment programs that are designed to treat the underlying psychological disorders rather than requiring them in lieu of the psychological treatments.

The people of the State of California do enact as follows:

SECTION 1. Chapter 2.97 (commencing with Section 1001.95) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 2.97. DIVERSION OF VETERANS

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

(b) For purposes of this section, a veterans court shall have the following objectives:

(1) Increase cooperation between the courts, criminal justice, veterans, and substance abuse systems.

(2) Creation of a dedicated calendar or a locally developed collaborative court-supervised veterans mental health program or system that contains the characteristics set out in subdivision (c) that will lead to placement of as many mentally ill offenders who are veterans of the United States military, including those with post-traumatic stress disorder, traumatic brain injury, military sexual trauma, substance abuse, or any mental health problem stemming from United States military service, in community treatment, as is feasible and consistent with public safety.

(3) Improve access to necessary services and support.

(4) Reduce recidivism.

(5) Reduce the involvement of veterans in the criminal justice system and time in jail by making mental health service for veterans available in the least restrictive environment possible while promoting public safety.

(c) For purposes of this section, a veterans court may have the following characteristics:

(1) Leadership by a superior court judicial officer assigned by the presiding judge.

(2) Enhanced accountability by combining judicial supervision with rehabilitation services that are rigorously monitored and focused on recovery.

(3) A problem solving focus.

(4) A team approach to decisionmaking.

(5) Integration of social and treatment services.

(6) Judicial supervision of the treatment process, as appropriate.

(7) Community outreach efforts.

(8) Direct interaction between defendant and judicial officer.

(d) In developing a veterans court, the county and court stakeholders through a collaborative process may develop a plan that uses this section as a guideline. It is recommended that at least one stakeholder should be a criminal justice client who is a veteran who has lived with the experience of mental illness as described in paragraph (2) of subdivision (b) of this section. The plan should consider incorporating as many of the following components as feasible:

(1) The method by which the veterans court ensures that the target population of defendants are identified and referred to the veterans court.

(2) The method for assessing defendants who are veterans for serious mental illness and co-occurring disorders.

(3) Eligibility criteria specifying what factors make the defendant eligible to participate in the veterans court, including service in the United States military, the amenability of the defendant to treatment and the facts of the case, as well as prior criminal history, United States military service history, and mental health and substance abuse treatment history.

(4) The elements of the treatment and supervision programs.

(5) Standards for continuing participation in, and successful completion of, the veterans court program.

(6) The need for all service providers and stakeholders to receive initial and ongoing training from county departments and community stakeholders with specialized knowledge about veterans' treatment and service needs, such as the county health department, county veterans officers, county drug and alcohol department, and Veterans Administration partners, and the need to provide initial and ongoing training for designated staff on the nature of serious mental illness and on the treatment and supportive services available in the community.

(7) The process to ensure defendants will receive the appropriate level of treatment services with emphasis on maximizing federally funded services from the Veterans Administration and the Department of Veterans Affairs, as well as the county and other local mental health and substance abuse treatment services to the extent that resources are available for that purpose, as described in paragraph (5) of subdivision (b) of Section 5600.3 of the Welfare and Institutions Code.

(8) The process for developing or modifying a treatment plan for each defendant, based on a formal assessment of the defendant's mental health, United States military service history, and substance abuse treatment needs. Participation in the veterans court shall require defendants to complete the recommended treatment plan, and comply with any other terms and conditions that optimizes the likelihood that the defendant completes the program.

(9) The process for referring cases to the veterans court.

(10) A defendant's voluntary entry into the veterans court, the right of a defendant to withdraw from the veterans court, and the process for explaining these rights to the defendant.

(e) In developing a veterans program, each veterans court team, led by a judicial officer, may, to the extent feasible, include, but not be limited to, a judicial officer to preside over the court, prosecutor, public defender, county mental health liaison, substance abuse liaison, county veterans' service officer, probation officer, and a Veterans Administration social worker to assist the court with screening veterans court candidates for eligibility and suitability in Veterans Administration funded programs. The veterans court team will determine the frequency of ongoing reviews of the progress of the offender in community treatment in order to ensure the offender adheres to the treatment plan as recommended, remains in treatment, and completes treatment.

(f) For the purposes of this section, it is the intent of the Legislature that a veterans court judge use a variety of options for carrying out the goal to ensure long-term public safety by maximizing the opportunities for veterans with psychological war wounds to get timely and appropriate treatment. It is the intent of the Legislature in enacting this section to augment rather than replace other sections within this code. The judicial officer has a variety of tools available to reach these goals and shall exercise discretion and use all tools available to ensure public safety and assist defendants to successfully complete appropriate treatment for the problems underlying their offenses. Where there are statutory requirements for certain education or counseling programs to be included in the terms of probation, for example, first conviction programs for driving under the influence offenders under Section 23152 of the Vehicle Code or domestic violence offenders under Section 273.5 of the Penal Code, the components of these offense-specific counseling terms shall be incorporated into the treatment programs that are designed to treat the underlying psychological disorders rather than required in lieu of the psychological treatments. This holistic approach ensures that the priority underlying offense is treated and that offense-specific education and counseling aims are met.