

BILL ANALYSIS

C.S.S.B. 1474
By: Garcia
Defense & Veterans' Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that more than 1.6 million veterans live in Texas and that some of these veterans have difficulty transitioning from military service to civilian life. The parties explain that these difficulties include conditions such as addiction and post-traumatic stress disorder. It has been noted that convictions for criminal activity are among the negative consequences of these conditions. As a result, the parties note, Texas has created specialized veterans court programs to provide structured treatment and accountability for veterans in an effort to keep them out of the criminal justice system. The parties further note that only veterans who have served in a combat zone or other similar hazardous duty area are eligible for participation in veterans court programs. The parties emphasize that this means that, despite experiencing trauma during their service outside of these areas, many veterans are ineligible to enter a veterans court program. C.S.S.B. 1474 seeks to address this issue by expanding veterans court program eligibility to more veterans.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1474 amends the Government Code to redesignate a veterans court program as a veterans treatment court program. The bill removes the requirement that a court find, for purposes of a defendant's eligibility for participation in a veterans treatment court program, that the defendant suffers from a brain injury, mental illness, or mental disorder that resulted from the defendant's military service in a combat zone or other similar hazardous duty area and a requirement that such an injury materially affect the defendant's criminal conduct at issue in the case. The bill requires the court to instead find, for purposes of such eligibility, that the defendant suffers from such an injury, illness, or disorder that occurred during or resulted from the defendant's military service and affected the defendant's criminal conduct at issue in the case. The bill includes being a victim of military sexual trauma among the conditions that make a defendant eligible for the veterans treatment court program. The bill defines "military sexual trauma" as any sexual assault or sexual harassment that occurs while the victim is a member of the United States armed forces performing the person's regular duties. The bill adds as an alternative finding for purposes of such eligibility that the defendant is a veteran or current member of the United States armed forces whose participation in such a program, considering the circumstances of the defendant's conduct, personal and social background, and criminal history, is likely to achieve the objective of ensuring public safety through rehabilitation of the veteran.

C.S.S.B. 1474 authorizes a veterans treatment court program to allow a participant to comply with the participant's court-ordered individualized treatment plan or to fulfill certain other court obligations through the use of videoconferencing software or other Internet-based communications. The bill authorizes a veterans treatment court program that accepts placement of a defendant to transfer responsibility for supervising the defendant's participation in the program to another veterans treatment court program that is located in the county where the defendant works or resides but only with the consent of both veterans treatment court programs and the defendant. The bill requires a defendant who consents to the transfer of the defendant's supervision to agree to abide by all rules, requirements, and instructions of the veterans treatment court program that accepts the transfer. The bill requires the veterans treatment court program supervising a defendant whose supervision is transferred to return the responsibility for the defendant's supervision to the veterans treatment court program that initiated the transfer if the defendant does not successfully complete the program. The bill authorizes the court in which the criminal case is pending, if a defendant is charged with an offense in a county that does not operate a veterans treatment court program, to place the defendant in a veterans treatment court program located in the county where the defendant works or resides, provided that a program is operated in that county, the defendant agrees to the placement, and the defendant agrees to abide by all rules, requirements, and instructions of the program in which the defendant is placed.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1474 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

No equivalent provision.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. The heading to Chapter 124, Government Code, is amended to read as follows:

CHAPTER 124. VETERANS
TREATMENT COURT PROGRAM

SECTION 2. Section 124.001, Government Code, is amended to read as follows:

Sec. 124.001. VETERANS TREATMENT
COURT PROGRAM DEFINED;
PROCEDURES FOR CERTAIN
DEFENDANTS. (a) In this chapter,
"veterans treatment court program" means a
program that has the following essential
characteristics:

- (1) the integration of services in the processing of cases in the judicial system;
- (2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;
- (3) early identification and prompt placement of eligible participants in the program;
- (4) access to a continuum of alcohol,

controlled substance, mental health, and other related treatment and rehabilitative services;

(5) careful monitoring of treatment and services provided to program participants;

(6) a coordinated strategy to govern program responses to participants' compliance;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(10) development of partnerships with public agencies and community organizations, including the United States Department of Veterans Affairs.

(b) If a defendant successfully completes a veterans treatment court program [~~as authorized under Section 76.011~~], after notice to the attorney representing the state and a hearing in the veterans treatment court at which that court determines that a dismissal is in the best interest of justice, the court in which the criminal case is pending shall dismiss the case [~~criminal action~~] against the defendant.

SECTION 1. Section 124.002, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The commissioners court of a county may establish a veterans court program for persons arrested for or charged with any misdemeanor or felony offense. 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, who:

~~(1) [~~;~~ and ~~(2)~~]~~ suffers from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder, or was a victim of military sexual trauma that:

~~(A) occurred during or resulted from the defendant's military service [~~in a combat zone or other similar hazardous duty area~~];~~

SECTION 3. Section 124.002, Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) The commissioners court of a county may establish a veterans treatment court program for persons arrested for or charged with any misdemeanor or felony offense. A defendant is eligible to participate in a veterans treatment 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, who:

~~(1) [~~;~~ and ~~(2)~~]~~ suffers from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder, or was a victim of military sexual trauma that:

~~(A) occurred during or resulted from the defendant's military service [~~in a combat zone or other similar hazardous duty area~~];~~

and

(B) [~~materially~~] affected the defendant's criminal conduct at issue in the case; or
(2) is a defendant whose participation in a veterans court program, considering the circumstances of the defendant's conduct, personal and social background, and criminal history, is likely to achieve the objective of ensuring public safety through rehabilitation of the veteran in the manner provided by Section 1.02(1), Penal Code.

(d) In this section, "military sexual trauma" means a brain injury, mental illness, or mental disorder that, in the opinion of a mental health professional, resulted from a physical assault of a sexual nature, a battery of a sexual nature, or an instance of sexual harassment that occurred while the veteran was serving on active duty, active duty for training, or inactive duty training.

No equivalent provision.

No equivalent provision.

and

(B) [~~materially~~] affected the defendant's criminal conduct at issue in the case; or
(2) is a defendant whose participation in a veterans ~~treatment~~ court program, considering the circumstances of the defendant's conduct, personal and social background, and criminal history, is likely to achieve the objective of ensuring public safety through rehabilitation of the veteran in the manner provided by Section 1.02(1), Penal Code.

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

(d) In this section, "military sexual trauma" means any sexual assault or sexual harassment that occurs while the victim is a member of the United States armed forces performing the person's regular duties.

SECTION 4. The heading to Section 124.003, Government Code, is amended to read as follows:

Sec. 124.003. DUTIES OF VETERANS TREATMENT COURT PROGRAM.

SECTION 5. Section 124.003, Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) A veterans treatment court program established under this chapter must:

(1) ensure that a defendant [~~person~~] eligible for participation in 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 treatment 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) A veterans treatment court program established under this chapter shall make, establish, and publish local procedures to ensure maximum participation of eligible defendants in the county or counties in which those defendants reside.

(b-1) A veterans treatment court program may allow a participant to comply with the participant's court-ordered individualized treatment plan or to fulfill certain other court obligations through the use of videoconferencing software or other Internet-based communications.

No equivalent provision.

SECTION 6. Section 124.004, Government Code, is amended to read as follows:

Sec. 124.004. ESTABLISHMENT OF REGIONAL PROGRAM. (a) The commissioners courts of two or more counties may elect to establish a regional veterans treatment court program under this chapter for the participating counties.

(b) For purposes of this chapter, each county that elects to establish a regional veterans treatment court program under this section is considered to have established the program and is entitled to retain fees under Article 102.0178, Code of Criminal Procedure, in the same manner as if the county had established a veterans treatment court program without participating in a regional program.

No equivalent provision.

SECTION 7. Section 124.005(a), Government Code, is amended to read as follows:

(a) A veterans treatment court program established under this chapter may collect from a participant in the program:

(1) a reasonable program fee not to exceed \$1,000; and

(2) 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.

No equivalent provision.

SECTION 8. Chapter 124, Government Code, is amended by adding Section 124.006 to read as follows:

Sec. 124.006. COURTESY SUPERVISION. (a) A veterans treatment court program that accepts placement of a defendant may transfer responsibility for supervising the defendant's participation in

the program to another veterans treatment court program that is located in the county where the defendant works or resides. The defendant's supervision may be transferred under this section only with the consent of both veterans treatment court programs and the defendant.

(b) A defendant who consents to the transfer of the defendant's supervision must agree to abide by all rules, requirements, and instructions of the veterans treatment court program that accepts the transfer.

(c) If a defendant whose supervision is transferred under this section does not successfully complete the program, the veterans treatment court program supervising the defendant shall return the responsibility for the defendant's supervision to the veterans treatment court program that initiated the transfer.

(d) If a defendant is charged with an offense in a county that does not operate a veterans treatment court program, the court in which the criminal case is pending may place the defendant in a veterans treatment court program located in the county where the defendant works or resides, provided that a program is operated in that county and the defendant agrees to the placement. A defendant placed in a veterans treatment court program in accordance with this subsection must agree to abide by all rules, requirements, and instructions of the program.

No equivalent provision.

SECTION 9. Section 54.976(a), Government Code, is amended to read as follows:

(a) A judge may refer to a magistrate any criminal case or matter relating to a criminal case for proceedings involving:

- (1) a negotiated plea of guilty or no contest and sentencing;
- (2) a pretrial motion;
- (3) an examining trial;
- (4) a writ of habeas corpus;
- (5) a bond forfeiture suit;
- (6) issuance of search warrants;
- (7) setting, setting conditions, modifying, revoking, and surrendering of bonds, including surety bonds;
- (8) arraignment of defendants;
- (9) a motion to increase or decrease a bond;
- (10) a motion to revoke community supervision or to proceed to an adjudication;
- (11) an issue of competency or a civil

commitment under Chapter 46, 46B, or 46C, Code of Criminal Procedure, with or without a jury;

(12) a motion to modify community supervision;

(13) specialty court proceedings, including drug court proceedings, veterans treatment [~~veteran's~~] court proceedings, and driving while intoxicated court proceedings;

(14) an expunction or a petition for nondisclosure;

(15) an occupational driver's license;

(16) a waiver of extradition;

(17) the issuance of subpoenas and orders requiring the production of medical records, including records relating to mental health or substance abuse treatment; and

(18) any other matter the judge considers necessary and proper.

No equivalent provision.

SECTION 10. Section 103.0271, Government Code, is amended to read as follows:

Sec. 103.0271. ADDITIONAL MISCELLANEOUS FEES AND COSTS: GOVERNMENT CODE. Fees and costs shall be paid or collected under the Government Code as follows:

(1) a program fee for a drug court program (Sec. 123.004, Government Code) . . . not to exceed \$1,000;

(2) an alcohol or controlled substance testing, counseling, and treatment fee (Sec. 123.004, Government Code) . . . the amount necessary to cover the costs of testing, counseling, and treatment;

(3) a reasonable program fee for a veterans treatment court program (Sec. 124.005, Government Code) . . . not to exceed \$1,000; and

(4) a testing, counseling, and treatment fee for testing, counseling, or treatment performed or provided under a veterans treatment court program (Sec. 124.005, Government Code) . . . the amount necessary to cover the costs of testing, counseling, or treatment.

No equivalent provision.

SECTION 11. Section 772.0061(a)(2), Government Code, as amended by Chapters 747 (S.B. 462) and 1167 (S.B. 484), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted and amended to read as follows:

(2) "Specialty court" means:

(A) a prostitution prevention program established under Chapter 169A, Health and

Safety Code;

(B) a family drug court program established under Chapter 122 or former law;

(C) [~~(B)~~] a drug court program established under Chapter 123 or former law;

(D) [~~(C)~~] a veterans treatment court program established under Chapter 124 or former law; and

(E) [~~(D)~~] a mental health court program established under Chapter 125 or former law.

No equivalent provision.

SECTION 12. (a) The change in law made by this Act by amending Section 124.002, Government Code, applies to a person who, on or after the effective date of this Act, enters a veterans treatment court program under Chapter 124, Government Code, regardless of whether the person committed the offense for which the person enters the program before, on, or after the effective date of this Act.

(b) The change in law made by this Act in adding Section 124.006, Government Code, applies to a person who, on or after the effective date of this Act, is under the supervision of a veterans treatment court program.

No equivalent provision.

SECTION 13. To the extent of any conflict, this Act prevails over another Act of the 84th Legislature, Regular Session, 2015, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 2. This Act takes effect September 1, 2015.

SECTION 14. Same as engrossed version.