

BILL ANALYSIS

Senate Research Center
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S.B. 112
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Criminal Justice
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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.

As proposed, S.B. 112 amends current law relating to deferred prosecution programs from certain military service members and veterans.

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 Chapter 32, Code of Criminal Procedure, by adding Article 32.03, as follows:

Art. 32.03. DEFERRED PROSECUTION PROGRAMS FOR MILITARY SERVICE MEMBERS OR VETERANS. (a) Defines "military service member or veteran."

(b) Requires the judges of the county courts, statutory county courts, and district courts trying criminal cases in each county, by local rule, to establish and publish written countywide eligibility requirements and guidelines for implementation of a deferred prosecution program for military service members or veterans who

demonstrate that their criminal conduct was materially affected by brain injuries or mental illnesses, including post-traumatic stress disorder, resulting from military service in a combat zone or other hazardous duty area. Authorizes the court to allow participation in the program by eligible defendants in misdemeanor or felony cases only as the court considers appropriate and, on its own motion, dismiss a criminal action against a defendant on the defendant's successful completion of the conditions imposed by the court under the program.

(c) Requires the local rules for a program established under this article to require a qualified military or veterans organization to promptly review the defendant's military record to determine certain factors and evaluate a defendant's eligibility to participate in the program and to prepare and submit to the court in a timely manner a report that contains certain information and makes certain recommendations.

(d) Entitles the attorney representing the state and the attorney representing the defendant to obtain independent evaluations of the defendant's eligibility to participate in the deferred prosecution program. Requires that the results of an independent evaluation be reported to the court.

(e) Requires the court to consider the report prepared under Subsection (c) and any independent evaluations conducted under Subsection (d) in determining whether to allow a defendant to participate in the deferred prosecution program. Requires the court to require the defendant, as a condition of participating in the program, to pursue any available treatment option recommended in the report.

SECTION 2. Amends Article 55.01(b), Code of Criminal Procedure, to create Subsection (b)(2) 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) of this section, 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) of this code if the person in connection with the offense for which the person was arrested, successfully completes a deferred prosecution program established under Article 32.03, if the judge subsequently dismisses the criminal action against the person under Subsection (b)(2) of that article. Makes nonsubstantive changes.

SECTION 3. Requires the judges of the county courts, statutory county courts, and district courts trying criminal cases in each county to establish the deferred prosecution program required by Article 32.03, Code of Criminal Procedure, as added by this Act, not later than September 1, 2010.

SECTION 4. Effective date: September 1, 2009.