

ASSEMBLY BILL

No. 1925

Introduced by Assembly Member Salas

February 16, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1925, as introduced, Salas. Diversion: veterans.

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 authorize the veterans courts to operate as a preguilty plea program, deferred entry of judgment program, or a postguilty plea program where the defendant has entered a guilty plea or has been sentenced and is on probation.

Because this bill would change the punishment for commission of various crimes and would require local officials to provide a higher level of service, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

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

3

4 CHAPTER 2.97. DIVERSION OF VETERANS

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6 1001.95. (a) Superior courts are hereby authorized to develop
7 and implement veterans courts.

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

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

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

21 (3) Improve access to necessary services and support.

22 (4) Reduce recidivism.

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

1 (c) For purposes of this section, a veterans court shall have all
2 of the following characteristics:

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

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

8 (3) A problem solving focus.

9 (4) A team approach to decisionmaking.

10 (5) Integration of social and treatment services.

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

12 (7) Community outreach efforts.

13 (8) Direct interaction between defendant and judicial officer.

14 (d) In developing a veterans court, the presiding judge or his or
15 her designee shall contact the county board of supervisors, the
16 county administrative officer, or their designee to convene the
17 county and court stakeholders and, through a collaborative process
18 with these stakeholders, develop a plan that is consistent with this
19 section. At least one stakeholder should be a criminal justice client
20 who is a veteran who has lived with the experience of mental illness
21 as described in paragraph (2) of subdivision (b) of this section.
22 The plan shall address at a minimum all of the following
23 components:

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

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

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

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

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

38 (6) The need for the county mental health department and the
39 drug and alcohol department to provide initial and ongoing training

1 for designated staff on the nature of serious mental illness and on
2 the treatment and supportive services available in the community.

3 (7) The process to ensure defendants will receive the appropriate
4 level of treatment services, the county and other local agencies
5 shall be obligated to provide mental health treatment services only
6 to the extent that resources are available for that purpose, as
7 described in paragraph (5) of subdivision (b) of Section 5600.3 of
8 the Welfare and Institutions Code.

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

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

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

20 (e) In developing a veterans program, each veterans court team,
21 lead by a judicial officer, shall include, but not be limited to, a
22 judicial officer to preside over the court, prosecutor, public
23 defender, county mental health liaison, substance abuse liaison,
24 county veterans' service officer, and probation officer. The veterans
25 court team will determine the frequency of ongoing reviews of the
26 progress of the offender in community treatment in order to ensure
27 the offender adheres to the treatment plan as recommended,
28 remains in treatment, and completes treatment.

29 (f) For purposes of this section, a veterans court may operate
30 as a preguilty plea program, wherein criminal proceedings are
31 suspended without a plea of guilty for designated defendants. If
32 the court finds that the defendant is not performing satisfactorily
33 in the assigned program, or that the defendant is not benefiting
34 from education, treatment, or rehabilitation, the court shall consider
35 modification of the treatment plan or reinstate the criminal charge
36 or charges. If the court finds that the defendant has engaged in
37 criminal conduct rendering him or her unsuitable for the preguilty
38 plea program, the court shall reinstate the criminal charge or
39 charges. If the defendant has performed satisfactorily during the
40 period of the preguilty plea program, at the end of that period, the

1 criminal charge or charges shall be dismissed and the provisions
2 of Section 1000.4 shall apply.

3 (g) For purposes of this section, a veterans court may operate
4 as a deferred entry of judgment program. If the defendant is found
5 eligible, the prosecuting attorney shall file with the court a
6 declaration in writing or state for the record the grounds upon
7 which the determination is based, and shall make this information
8 available to the defendant and his or her attorney. This procedure
9 is intended to allow the court to set the hearing for deferred entry
10 of judgment at the arraignment. If the defendant is found ineligible
11 for deferred entry of judgment, the prosecuting attorney shall file
12 with the court a declaration in writing or state for the record the
13 grounds upon which the determination is based, and shall make
14 this information available to the defendant and his or her attorney.
15 The sole remedy of a defendant who is found ineligible for deferred
16 entry of judgment is a postconviction appeal. If the prosecuting
17 attorney determines that this section may be applicable to the
18 defendant, he or she shall advise the defendant and his or her
19 attorney in writing of that determination. This notification shall
20 include all of the following:

21 (1) A full description of the procedures for deferred entry of
22 judgment.

23 (2) A general explanation of the roles and authorities of the
24 probation department, the prosecuting attorney, the program, and
25 the court in the process.

26 (3) A clear statement that, in lieu of trial, the court may grant
27 deferred entry of judgment provided that the defendant pleads
28 guilty to each charge and waives time for the pronouncement of
29 judgment, and that upon the defendant's successful completion of
30 a program the positive recommendation of the program authority
31 and the motion of the prosecuting attorney, the court, or the
32 probation department, the court shall dismiss the charge or charges
33 against the defendant and the provisions of Sections 1000.3 and
34 1000.4 shall apply.

35 (4) A clear statement that upon failure of treatment or condition
36 under the program the prosecuting attorney or the probation
37 department or the court on its own may make a motion to the court
38 for entry of judgment, and the court shall render a finding of guilty
39 to the charge or charges pled, enter judgment, and schedule a
40 sentencing hearing.

1 (5) An explanation of criminal record retention and disposition
2 resulting from participation in the deferred entry of judgment
3 program and the defendant’s rights relative to answering questions
4 about his or her arrest and deferred entry of judgment following
5 successful completion of the program.

6 (h) For purposes of this section a veterans court may operate as
7 a postguilty plea program wherein the defendant has entered a
8 guilty plea or has been sentenced and is on probation. If the
9 defendant has performed satisfactorily during the period of the
10 postguilty plea program, at the end of that period, the criminal
11 charge or charges may be dismissed.

12 (i) Entry into the veterans court program is voluntary. Once an
13 individual chooses to enter, the defendant shall comply with the
14 conditions of participation specified by the court.

15 (j) An individual’s duration in the veterans court program shall
16 not exceed his or her maximum sentence plus probation or parole.

17 SEC. 2. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution for certain
19 costs that may be incurred by a local agency or school district
20 because, in that regard, this act creates a new crime or infraction,
21 eliminates a crime or infraction, or changes the penalty for a crime
22 or infraction, within the meaning of Section 17556 of the
23 Government Code, or changes the definition of a crime within the
24 meaning of Section 6 of Article XIII B of the California
25 Constitution.

26 However, if the Commission on State Mandates determines that
27 this act contains other costs mandated by the state, reimbursement
28 to local agencies and school districts for those costs shall be made
29 pursuant to Part 7 (commencing with Section 17500) of Division
30 4 of Title 2 of the Government Code.