

AMENDED IN SENATE AUGUST 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2611

Introduced by Assembly Member Butler

February 24, 2012

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 *treatment* courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2611, as amended, Butler. Veterans *treatment* courts.

Existing law provides for the diversion of specified criminal offenders in alternate sentencing and treatment programs. *Existing law authorizes a court to order a defendant who is a member of the United States military who may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of that service into a local, state, federal, or private nonprofit 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.*

This bill would authorize superior courts to develop and implement veterans *treatment* 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 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 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 bill would require, to the maximum extent possible, that veterans who are participating in a veterans treatment court or who are eligible for diversion, as specified, be referred to the federal Department of Veterans Affairs for the purpose of obtaining federal benefits. The bill would encourage veterans treatment courts to maintain information and statistics on the success rate of their court for use by the Legislature and the Judicial Council of California, and would authorize all superior courts to apply for federal grants to establish new veterans treatment courts.

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

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
5

6 1001.95. (a) Superior courts are hereby authorized to develop
7 and implement veterans treatment courts, which are highly
8 beneficial to the people of California due to greatly reduced rates
9 of recidivism compared to nontreatment court approaches
10 involving offenders. Participation by a county shall be voluntary.

11 (b) For purposes of this section, a veterans treatment court shall
12 may have some or all of the following objectives:

13 (1) Increase cooperation between the courts, criminal justice,
14 veterans and their families, available social services, and substance
15 abuse systems programs.

16 (2) Creation of a dedicated calendar or a locally developed,
17 collaborative, court-supervised veterans' mental health

1 program or system that contains the characteristics set out in
2 subdivision (c) that will lead to placement of as many mentally ill
3 offenders who are veterans of the United States military, including
4 those with post-traumatic stress disorder, traumatic brain injury,
5 military sexual trauma, substance abuse, or any mental health
6 problem stemming from United States military service, in
7 community treatment, as is feasible and consistent with public
8 safety.

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

10 (4) Reduce recidivism.

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

15 (6) *Assist offenders and their family members in connecting
with local services that may help in securing counseling,
employment, housing, and financial assistance, so that offenders
can return to being productive members of society.*

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

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

23 (2) Enhanced accountability by combining judicial supervision
24 with rehabilitation services that are rigorously monitored and
25 focused on *trauma* recovery *as required by Section 1170.9.*

26 (3) A problem solving focus.

27 (4) A team approach to decisionmaking.

28 (5) Integration of social and treatment services.

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

30 (7) Community outreach efforts.

31 (8) Direct interaction between defendant and, *the* judicial officer,
32 *and others as deemed necessary by the judicial officer.*

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

1 (1) The method by which the veterans *treatment* court ensures
2 that the target population of defendants is identified and referred
3 to the veterans *treatment* court.

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

6 (3) Eligibility criteria *prescribed by Section 1170.9* specifying
7 what factors make the defendant eligible to participate in the
8 veterans *treatment* court, including service in the United States
9 military, the amenability of the defendant to treatment, and the
10 facts of the case, as well as prior criminal history, United States
11 military service history, and mental health and substance abuse
12 treatment history.

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

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

16 (6) The need for all service providers and stakeholders to receive
17 initial and ongoing training from county departments and
18 community stakeholders with specialized knowledge about
19 veterans' treatment and service needs, such as the county health
20 department, county veterans officers, county drug and alcohol
21 department, and ~~Veterans Administration~~ *federal Department of*
22 *Veterans Affairs* partners, and the need to provide initial and
23 ongoing training for designated staff on the nature of serious mental
24 illness and on the treatment and supportive services available in
25 the community.

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

35 (8) The process for developing or modifying a treatment plan
36 for each defendant, based on a formal assessment of the defendant's
37 mental health, United States military service history, and substance
38 abuse treatment needs. Participation in the veterans *treatment* court
39 shall require defendants to complete the recommended treatment

1 plan and comply with other terms and conditions that optimize the
2 likelihood that the defendant will complete the program.

3 (9) The process for referring cases to the veterans *treatment*
4 court.

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

9 (11) *A structure for delivery of peer-to-peer mentoring offenders.*

10 (12) *Integrated drug and alcohol testing and treatment for*
11 *substance abuse.*

12 (13) *A graduated system of incentives and sanctions to motivate*
13 *offenders to better adhere to treatment and successfully complete*
14 *the program.*

15 (e) In developing a veterans program, each veterans *treatment*
16 court team, led by a judicial officer, may, to the extent feasible,
17 include, but not be limited to, a judicial officer to preside over the
18 court, prosecutor, public defender, county mental health liaison,
19 substance abuse liaison, county veterans' service officer, probation
20 officer, *peer monitoring coordinator or supervisor*, and a ~~Veterans~~
21 ~~Administration social worker~~ *federal Department of Veterans*
22 *Affairs (VA) representative* to assist the court with screening
23 veterans *treatment* court candidates for eligibility and suitability
24 ~~in Veterans Administration~~ for VA funded programs. The veterans
25 *treatment* court team will determine the frequency of ongoing
26 reviews of the progress of the offender in community treatment in
27 order to ensure the offender adheres to the treatment plan as
28 recommended, remains in treatment, and completes treatment.

29 (f) For the purposes of this section, it is the intent of the
30 Legislature that a veterans *treatment* court judge use a variety of
31 options for carrying out the goal to ensure long-term public safety
32 by maximizing the opportunities for veterans with psychological
33 war wounds to get timely and appropriate treatment. It is the intent
34 of the Legislature in enacting this section to augment rather than
35 replace other sections within this code. The judicial officer has a
36 variety of tools available to reach these goals and shall exercise
37 discretion and use all tools available to ensure public safety and
38 assist defendants to successfully complete appropriate treatment
39 for the problems underlying their offenses. Where there are
40 statutory requirements for certain education or counseling programs

1 to be included in the terms of probation, for example, first
2 conviction programs for driving under the influence offenders
3 under Section 23152 of the Vehicle Code or domestic violence
4 offenders under Section 273.5 of the Penal Code, the components
5 of these offense-specific counseling terms shall be incorporated
6 into the treatment programs that are designed to treat the underlying
7 psychological disorders rather than required in lieu of the
8 psychological treatments. This holistic approach ensures that the
9 priority underlying offense is treated and that offense-specific
10 education and counseling aims are met.

11 *(g) To the maximum extent possible, veterans who are*
12 *participating in a veterans treatment court or other therapeutic*
13 *court, and those veterans who are eligible for diversion under*
14 *Section 1170.9, shall be referred to the federal Department of*
15 *Veterans Affairs for the purpose of obtaining federal benefits for*
16 *which they are eligible.*

17 *1001.96. (a) All veterans treatment courts are encouraged to*
18 *maintain information and statistics on the success rate of their*
19 *court for use by the Legislature and the Judicial Council of*
20 *California.*

21 *(b) Superior courts are hereby authorized to apply for federal*
22 *grants, including grants available from the United States*
23 *Department of Justice, in order to establish a new veterans*
24 *treatment court.*