

Assembly Bill No. 2611

Passed the Assembly August 27, 2012

Chief Clerk of the Assembly

Passed the Senate August 22, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

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 treatment courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2611, 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' 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 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.

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 treatment courts, which are highly beneficial to the people of California due to greatly reduced rates of recidivism compared to nontreatment court approaches involving offenders. Participation by a county shall be voluntary.

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

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

(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 services for

veterans available in the least restrictive environment possible while promoting public safety.

(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.

(c) For purposes of this section, a veterans treatment 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 trauma recovery as required by Section 1170.9.

(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, the judicial officer, and others as deemed necessary by the judicial officer.

(d) In developing a veterans treatment 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). The plan should consider incorporating as many of the following components as feasible:

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

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

(3) Eligibility criteria prescribed by Section 1170.9 specifying what factors make the defendant eligible to participate in the veterans treatment 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 treatment 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 federal Department of Veterans Affairs 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 federal Department of Veterans Affairs, other federal agencies, 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 treatment court shall require defendants to complete the recommended treatment plan and comply with other terms and conditions that optimize the likelihood that the defendant will complete the program.

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

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

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

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

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

(e) In developing a veterans program, each veterans treatment 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, peer monitoring coordinator or supervisor, and a federal Department of Veterans Affairs (VA) representative to assist the court with screening veterans treatment court candidates for eligibility and suitability for VA funded programs. The veterans treatment 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 treatment 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.

(g) To the maximum extent possible, veterans who are participating in a veterans treatment court or other therapeutic court, and those veterans who are eligible for diversion under Section 1170.9, shall be referred to the federal Department of

Veterans Affairs for the purpose of obtaining federal benefits for which they are eligible.

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

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

Approved _____, 2012

Governor