
VETERANS' COURT FORUM

Tuesday, March 30th, 2010

Hosted by:

Senator Leticia Van de Putte, Senator Rodney Ellis, and Representative Allen Vaught

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 Post Traumatic Stress Disorder (PTSD) or major depression. However, only 53 percent of those affected have sought treatment. Veterans courts provide veterans suffering from combat-related mental illness an avenue to make retribution for their actions and receive the mental health services they need rather than simply casting them into the criminal justice system. Please see references below for more information on veterans' courts.

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AN ACT

1
2 relating to the fund for veterans' assistance and to the
3 establishment of pretrial veterans court programs.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subsections (a), (c), and (e), Section 434.017,
6 Government Code, as redesignated and amended by Chapter 1418 (H.B.
7 3107), Acts of the 80th Legislature, Regular Session, 2007, are
8 amended to read as follows:

9 (a) The fund for veterans' assistance is a special fund in
10 the state treasury outside the general revenue fund. The fund is
11 composed of:

12 (1) money transferred to the fund at the direction of
13 the legislature;

14 (2) money deposited to the credit of the fund under
15 Section 502.1746, Transportation Code;

16 (3) gifts and grants contributed to the fund; and

17 (4) ~~[(3)]~~ the earnings of the fund.

18 (c) Money in the fund may be appropriated to the Texas
19 Veterans Commission to:

20 (1) enhance or improve veterans' assistance programs,
21 including veterans' representation and counseling; ~~and~~

22 (2) make grants to ~~[local communities to]~~ address
23 veterans' needs; and

24 (3) administer the fund.

1 (e) To carry out any purpose of this chapter, the Texas
2 Veterans Commission may solicit and accept a gift, grant, devise,
3 bequest of money, security, service, or property, including money
4 raised or a service provided by a volunteer or volunteer group, to
5 promote the work of the commission. The commission may participate
6 in the establishment and operation of an affiliated nonprofit
7 organization that is established for the purpose of raising money
8 for or providing services or other benefits to the commission [~~The~~
9 ~~comptroller may solicit and accept gifts and grants to the~~
10 ~~fund~~]. A gift, [~~or~~] grant, devise, or bequest to the fund may be
11 appropriated in the same manner as other money in the fund, subject
12 to any limitation or requirement placed on the gift, [~~or~~] grant,
13 devise, or bequest by the donor or granting entity.

14 SECTION 2. Subchapter A, Chapter 434, Government Code, is
15 amended by adding Section 434.0171 to read as follows:

16 Sec. 434.0171. STATE EMPLOYEE CONTRIBUTIONS TO FUND FOR
17 VETERANS' ASSISTANCE. For purposes of Subchapter I, Chapter 659:

18 (1) the Texas Veterans Commission, for the sole
19 purpose of managing the fund for veterans' assistance, is
20 considered an eligible charitable organization entitled to
21 participate in the state employee charitable campaign; and

22 (2) a state employee is entitled to authorize a
23 deduction for contributions to the Texas Veterans Commission for
24 the purposes of managing the fund for veterans' assistance as a
25 charitable contribution under Section 659.132, and the Texas
26 Veterans Commission may use the contributions for the purposes
27 listed in Section 434.017(c), as redesignated and amended by

1 Chapter 1418 (H.B. 3107), Acts of the 80th Legislature, Regular
2 Session, 2007.

3 SECTION 3. Subchapter D, Chapter 502, Transportation Code,
4 is amended by adding Section 502.1746 to read as follows:

5 Sec. 502.1746. VOLUNTARY CONTRIBUTION TO VETERANS'
6 ASSISTANCE FUND. (a) When a person registers a motor vehicle
7 under this chapter, the person is entitled to make a voluntary
8 contribution in any amount to the fund for veterans' assistance
9 established by Section 434.017, Government Code, as redesignated
10 and amended by Chapter 1418 (H.B. 3107), Acts of the 80th
11 Legislature, Regular Session, 2007.

12 (b) The county assessor-collector shall send any
13 contribution made under this section to the comptroller for deposit
14 in the state treasury to the credit of the fund for veterans'
15 assistance before the 31st day after the date the contribution is
16 made.

17 SECTION 4. Subtitle E, Title 7, Health and Safety Code, is
18 amended by adding Chapter 617 to read as follows:

19 Sec. 617.001. VETERANS COURT PROGRAM DEFINED; PROCEDURES
20 FOR CERTAIN DEFENDANTS. (a) In this chapter, "veterans court
21 program" means a program that has the following essential
22 characteristics:

23 (1) the integration of services in the processing of
24 cases in the judicial system;

25 (2) the use of a nonadversarial approach involving
26 prosecutors and defense attorneys to promote public safety and to
27 protect the due process rights of program participants;

1 (3) early identification and prompt placement of
2 eligible participants in the program;

3 (4) access to a continuum of alcohol, controlled
4 substance, mental health, and other related treatment and
5 rehabilitative services;

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

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

10 (7) ongoing judicial interaction with program
11 participants;

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

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

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

19 (b) If a defendant successfully completes a veterans court
20 program, as authorized under Section 76.011, Government Code, after
21 notice to the attorney representing the state and a hearing in the
22 veterans court at which that court determines that a dismissal is in
23 the best interest of justice, the court in which the criminal case
24 is pending shall dismiss the criminal action against the defendant.

25 Sec. 617.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.

26 (a) The commissioners court of a county may establish a veterans
27 court program for persons arrested for or charged with any

1 misdemeanor or felony offense. A defendant is eligible to
2 participate in a veterans court program established under this
3 chapter only if the attorney representing the state consents to the
4 defendant's participation in the program and if the court in which
5 the criminal case is pending finds that the defendant:

6 (1) is a veteran or current member of the United States
7 armed forces, including a member of the reserves, national guard,
8 or state guard; and

9 (2) suffers from a brain injury, mental illness, or
10 mental disorder, including post-traumatic stress disorder, that:

11 (A) resulted from the defendant's military
12 service in a combat zone or other similar hazardous duty area; and

13 (B) materially affected the defendant's criminal
14 conduct at issue in the case.

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

19 (c) Proof of matters described by Subsection (a) may be
20 submitted to the court in which the criminal case is pending in any
21 form the court determines to be appropriate, including military
22 service and medical records, previous determinations of a
23 disability by a veteran's organization or by the United States
24 Department of Veterans Affairs, testimony or affidavits of other
25 veterans or service members, and prior determinations of
26 eligibility for benefits by any state or county veterans office.
27 The court's findings must accompany any docketed case.

1 Sec. 617.003. DUTIES OF VETERANS COURT. (a) A veterans
2 court program established under this chapter must:

3 (1) ensure a person eligible for the program is
4 provided legal counsel before volunteering to proceed through the
5 program and while participating in the program;

6 (2) allow a participant to withdraw from the program
7 at any time before a trial on the merits has been initiated;

8 (3) provide a participant with a court-ordered
9 individualized treatment plan indicating the services that will be
10 provided to the participant; and

11 (4) ensure that the jurisdiction of the veterans court
12 continues for a period of not less than six months but does not
13 continue beyond the period of community supervision for the offense
14 charged.

15 (b) A veterans court program established under this chapter
16 shall make, establish, and publish local procedures to ensure
17 maximum participation of eligible defendants in the county or
18 counties in which those defendants reside.

19 (c) This chapter does not prevent the initiation of
20 procedures under Chapter 46B, Code of Criminal Procedure.

21 Sec. 617.004. ESTABLISHMENT OF REGIONAL PROGRAM. The
22 commissioners courts of two or more counties may elect to establish
23 a regional veterans court program under this chapter for the
24 participating counties.

25 Sec. 617.005. OVERSIGHT. (a) The lieutenant governor and
26 the speaker of the house of representatives may assign to
27 appropriate legislative committees duties relating to the

1 oversight of veterans court programs established under this
2 chapter.

3 (b) A legislative committee or the governor may request the
4 state auditor to perform a management, operations, or financial or
5 accounting audit of a veterans court program established under this
6 chapter.

7 (c) A veterans court program established under this chapter
8 shall:

9 (1) notify the criminal justice division of the
10 governor's office before or on implementation of the program; and

11 (2) provide information regarding the performance of
12 the program to that division on request.

13 Sec. 617.006. FEES. (a) A veterans court program
14 established under this chapter may collect from a participant in
15 the program:

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

17 (2) a testing, counseling, and treatment fee in an
18 amount necessary to cover the costs of any testing, counseling, or
19 treatment performed or provided under the program.

20 (b) Fees collected under this section may be paid on a
21 periodic basis or on a deferred payment schedule at the discretion
22 of the judge, magistrate, or program director administering the
23 program. The fees must be:

24 (1) based on the participant's ability to pay; and

25 (2) used only for purposes specific to the program.

26 SECTION 5. Subsection (a), Article 55.01, Code of Criminal
27 Procedure, is amended to read as follows:

1 (a) A person who has been placed under a custodial or
2 noncustodial arrest for commission of either a felony or
3 misdemeanor is entitled to have all records and files relating to
4 the arrest expunged if:

5 (1) the person is tried for the offense for which the
6 person was arrested and is:

7 (A) acquitted by the trial court, except as
8 provided by Subsection (c) of this section; or

9 (B) convicted and subsequently pardoned; or

10 (2) each of the following conditions exist:

11 (A) an indictment or information charging the
12 person with commission of a felony has not been presented against
13 the person for an offense arising out of the transaction for which
14 the person was arrested or, if an indictment or information
15 charging the person with commission of a felony was presented, the
16 indictment or information has been dismissed or quashed, and:

17 (i) the limitations period expired before
18 the date on which a petition for expunction was filed under Article
19 55.02; or

20 (ii) the court finds that the indictment or
21 information was dismissed or quashed because the person completed a
22 pretrial intervention program authorized under Section 76.011,
23 Government Code, or because the presentment had been made because
24 of mistake, false information, or other similar reason indicating
25 absence of probable cause at the time of the dismissal to believe
26 the person committed the offense or because it was void;

27 (B) the person has been released and the charge,

1 if any, has not resulted in a final conviction and is no longer
2 pending and there was no court ordered community supervision under
3 Article 42.12 for any offense other than a Class C misdemeanor; and

4 (C) the person has not been convicted of a felony
5 in the five years preceding the date of the arrest.

6 SECTION 6. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2009.

S.B. No. 1940

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1940 passed the Senate on April 16, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 29, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1940 passed the House, with amendment, on May 26, 2009, by the following vote: Yeas 146, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor