

SUBJECT: Veterans treatment court programs and program functions

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 6 ayes — S. King, Frank, Aycock, Blanco, Farias, Schaefer

1 nay — Shaheen

WITNESSES: For — Randall Parker, Bexar County Veterans Treatment Court; John Roach, Collin County Veterans Court; Monique Rodriguez, Grace After Fire; Alan Cameron and Jude Prather, Hays County Veterans Court; Todd Jermstad; (*Registered, but did not testify*: Anuar Valdez, Bexar County Veterans Treatment Court; William Moody, El Paso Veterans Program; Grace Davis, Hays Caldwell Council on Alcohol and Drug Abuse; Emilio de los Santos, Hidalgo Veterans Service Office; Jim Brennan, Texas Coalition of Veterans Organizations; James Cunningham, Texas Coalition of Veterans Organizations, Texas Council of Chapters of the Military Officers Association of America; Lee Johnson, Texas Council of Community Centers; LaShondra Jones, Texas Criminal Justice Coalition; Rodney Thompson, Texas Probation Association; Conrad John, Travis County Commissioners Court; Jolene Grajczyk, Travis County Veterans Court; Olie Pope, Veterans County Service Officers Association of Texas; Judith Dubose; Jeff Gilmore; Sheena Harsh)

Against — (*Registered, but did not testify*: Lee Spiller, Citizens Commission on Human Rights; Dean Blanchard)

On — Karen Fastenau, Texas Veterans Commission; Michael Denton, Travis County Veterans Court; Claudia Laird

BACKGROUND: Government Code, sec. 124.001 defines the veterans court program as a program that provides:

- integration of services in processing cases and using non-adversarial approaches between attorneys;
- early identification and prompt placement of eligible veterans;

- access to a continuum of alcohol, controlled substance, mental health, and other treatment and rehabilitative services;
- monitoring of treatment and services provided to participants, including ongoing judicial interaction;
- continuing interdisciplinary education to promote effective program planning, implementation, and operations; and
- development of partnerships with public agencies and community organizations, including the U.S. Department of Veterans Affairs.

DIGEST:

Establishment of the program and defendant eligibility. CSHB 1048 would allow the commissioners court of a county to establish a veterans treatment court program for people arrested for, charged with, convicted of, or placed on probation for any misdemeanor or felony offense. The bill would add that defendants would be eligible to participate in the program if the court found that they were victims of military sexual trauma or, in consideration of the defendant's background, that their participation in a veterans treatment court program would ensure public safety through rehabilitation of the veteran.

The bill would require a veterans treatment court to ensure that a defendant in the program was provided legal counsel if there had not yet been a disposition in the criminal case. The court also would be required to allow a participant who was arrested for or charged with an offense to withdraw from the program at any time before a trial began. The court program could allow a participant to comply with their ordered treatment plan or other court obligations through videoconferencing or other internet-based communication. The bill also would reduce the maximum program fee for a participant from \$1,000 to \$500.

Defendant supervision. CSHB 1048 also would allow a veterans treatment court program to transfer the responsibility for supervising the defendant's participation in the program to another veterans treatment court program located in the county where the defendant worked or resided. To transfer supervision, both the veterans courts and the defendant would have to consent.

If a defendant who was transferred did not complete the program, the supervising court program would return the responsibility for the defendant's supervision back to the court program that initiated the transfer. If the defendant was charged with an offense in a county where there was no veterans treatment court program, then the court where the criminal case was pending could place the defendant in a program located in the county where the defendant worked or resided, if the defendant agreed.

The provisions regarding defendant supervision would apply only to a person who was under the supervision of a veterans treatment court program on or after the effective date of the bill.

Arrest record expunction. The bill would add completing a veterans treatment court program for any misdemeanor or felony as a condition that would entitle individuals to have their arrest records expunged if the information or indictment was quashed as a result of the completion of the program.

The bill would allow individuals arrested for a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) or a higher offense to file an ex parte petition for expunction in a district court in which the petitioner was arrested or the offense allegedly occurred. For individuals entitled to an expunction who were arrested for a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) or a class C misdemeanor (maximum fine of \$500), the court would be required to enter an automatic order of expunction by the 30th day after the case was dismissed.

The bill would apply to the expunction of arrest records for a person who successfully completed a veterans treatment court program either before, on, or after the effective date of the bill as soon as practicable after the court received written notice that the person was entitled to the expunction, regardless of the 30-day imposed time limit in the bill.

Case dismissal under the program. The bill would require the veterans treatment court to provide its findings after making a determination for a dismissal to the criminal court where the case was pending if a defendant was arrested or charged with an offense, but not convicted or placed on probation, and completed a veterans treatment court program. The court would provide its findings after giving notice to the attorney representing the state and, for a defendant entitled to an expunction, would be required to include all information required for the filing of an ex parte petition for expunction.

The criminal court where the case was pending would be required to dismiss the case if the veterans treatment court made a determination for dismissal. For individuals arrested for class B or class C misdemeanors, who are entitled to an automatic expunction, the court where the criminal case was pending would be required to enter the order if it was a district court or, if it was not a district court, forward the appropriate dismissal and expunction information to a court with jurisdiction to enter the order.

The bill would allow a judge to refer any criminal case or related matter to a magistrate for proceedings involving veterans treatment court proceedings.

Order of nondisclosure. If the defendant completed a veterans treatment court program and the case was not dismissed, regardless of whether the defendant was convicted or proceedings were deferred without an adjudication of guilt, the court would be required to enter an order of nondisclosure as if the defendant had received a discharge and dismissal with respect to all arrest records. This order would be entered after giving notice to the state and after a hearing on whether the defendant was otherwise entitled to the petition for expunction.

The bill would require the court to enter the order of nondisclosure only if the defendant entered the veterans treatment court program based on a misdemeanor offense and had no prior convictions of class C misdemeanors, felony offenses, or sexually violent offenses and was not

convicted for any felony offense for two years after the date the defendant successfully completed the program. The defendant would not be entitled to petition the court for an order of nondisclosure after completing a veterans treatment court program if the defendant had entered the program because of a conviction for causing injury to another while driving while intoxicated.

The provisions regarding orders of nondisclosure would apply only to a person who entered a veterans treatment court program on or after the effective date of the bill.

This bill would prevail over any conflicting bills of the 84th Legislature relating to non-substantive additions to and corrections in enacted codes. This bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 1048 would address the specific needs of military veterans and would provide eligible veterans an alternative to incarceration. Many of these veterans are dealing with drug or substance dependence and may require special care in the criminal justice system.

The bill would allow the court program to dismiss cases, expunge arrest records, and enter orders for nondisclosure in the criminal cases of veterans in the program. The court program goes far beyond simply ordering medications or hospitalization to deal with veterans' cases.

**OPPONENTS
SAY:**

CSHB 1048 would create a separate justice system for veterans that would order veterans to take medications for mental illnesses and trauma when they may not need those medications. Because the bill would apply only to veterans or current military members who suffered from a brain injury, mental illness, mental disorder including posttraumatic stress disorder, or victims of military sexual trauma, these individuals are vulnerable to court orders requiring medication or hospitalization for treatment.