



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4212

Introduced 2/27/2009, by Rep. Michael W. Tryon - Ron Stephens - Mike Bost - Ronald A. Wait - Harry R. Ramey, Jr., et al.

SYNOPSIS AS INTRODUCED:

New Act

Creates the Military and Veterans Court Act. Permits the Chief Judge of a judicial circuit to establish a military and veterans court program for veterans and active duty service members. Provides that in such judicial circuits, a veteran or active duty service member who has a substance abuse problem and who is subject to a criminal proceeding may with the consent of the prosecution and with the approval of the court be admitted into a military and veterans court program. Excludes from the program a veteran or active duty service member: charged with a crime of violence within the past 10 years, excluding incarceration time; who denies his or her use of or addiction to drugs; or who does not demonstrate a willingness to participate in a treatment program. Provides that the military and veterans court program shall include a regimen of graduated requirements, rewards and sanctions, including: fines, costs, restitution, public service employment, incarceration of up to 120 days, individual and group therapy, drug analysis testing, close court monitoring, educational or vocational counseling, and other requirements to fulfill the program. Provides for revocation and resentencing of the person who violates the conditions of the program or who engages in criminal conduct rendering the person unsuitable for the program, or who is not performing satisfactorily or not benefiting from the education, treatment or rehabilitation.

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FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning military and veterans courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Military and Veterans Court Act.

6 Section 5. Purposes. The General Assembly recognizes that
7 the military members and military veterans may have certain
8 service-related conditions that may apply in a court of law.
9 There is a critical need for a military and veteran justice
10 system that will take into account service-related mental
11 health problems as well as circumstances surrounding
12 deployment. It is the intent of the General Assembly to create
13 a specialized military and veterans court with the necessary
14 flexibility to meet unique service-related problems in the
15 State of Illinois. The General Assembly recognizes that the use
16 and abuse of alcohol or drugs, mental health conditions, and
17 problematic social interactions that affect and confront some
18 veterans and members of the armed services on active duty have
19 a dramatic effect on the justice system in the State of
20 Illinois. There is a critical need for a military and veteran
21 justice system program that will recognize and address the
22 unique problems and circumstances faced by veterans and members
23 of the armed forces on active duty and the legal issues that

1 are impacted by those problems and circumstances so as to
2 reduce the incidence of violence, drug use, drug addiction,
3 alcohol use, alcohol addiction, mental health conditions, and
4 crimes committed by some veterans and members of the armed
5 services on active duty. It is the intent of the General
6 Assembly to create specialized military and veterans courts
7 with the necessary flexibility to meet these challenges facing
8 the State of Illinois.

9 Section 10. Definitions. As used in this Act:

10 "Military and veterans court", "military and veterans
11 court program", or "program" means an immediate and highly
12 structured judicial intervention process for substance abuse
13 treatment or mental health treatment of eligible veterans and
14 members of the armed services on active duty that brings
15 together substance abuse professionals, mental health
16 professionals, local social programs, and intensive judicial
17 monitoring in accordance with nationally recognized problems
18 facing that segment of the population.

19 "Military and veterans court professional" means a judge,
20 prosecutor, defense attorney, probation officer, or treatment
21 provider involved with the military and veterans court program.

22 "Pre-adjudicatory military and veterans court program"
23 means a program that allows a veteran or active duty service
24 member, with the consent of the prosecution, to expedite that
25 person's case and requires successful completion of the

1 military and veterans court program as part of the agreement.

2 "Post-adjudicatory military and veterans court program"
3 means a program in which the veteran or active duty service
4 member has admitted guilt or has been found guilty and agrees,
5 along with the prosecution, to enter a military and veteran's
6 court program as part of the disposition of the individual's
7 case.

8 "Combination military and veterans court program" means a
9 military and veterans court program that includes a
10 pre-adjudicatory military and veterans court program and a
11 post-adjudicatory military and veterans court program.

12 Section 15. Authorization. The Chief Judge of each judicial
13 circuit may establish a military and veterans court program for
14 veterans and members of the armed services on active duty
15 including the format under which it operates under this Act.

16 Section 20. Eligibility.

17 (a) A veteran or active duty service member may be admitted
18 into a military and veterans court program only upon the
19 agreement of the prosecutor and that person and with the
20 approval of the court.

21 (b) A veteran or active duty service member shall be
22 excluded from a military and veterans court program if any of
23 one of the following apply:

24 (1) The crime is a crime of violence as set forth in

1 clause (4) of this subsection (b).

2 (2) The veteran or active duty service member denies
3 his or her use of or addiction to drugs.

4 (3) The veteran or active duty service member does not
5 demonstrate a willingness to participate in a treatment
6 program.

7 (4) The veteran or active duty service member has been
8 adjudicated guilty for a crime of violence within the past
9 10 years excluding incarceration time, including but not
10 limited to: first degree murder, second degree murder,
11 predatory criminal sexual assault of a child, criminal
12 sexual assault, armed robbery, aggravated arson, arson,
13 aggravated kidnapping, kidnapping, aggravated battery
14 resulting in great bodily harm or permanent disability,
15 stalking, aggravated stalking, or any offense involving
16 the discharge of a firearm.

17 Section 25. Procedure.

18 (a) The court shall order an eligibility screening and an
19 assessment of the veteran or active duty service member by an
20 agent designated by the State of Illinois to provide assessment
21 services for the Illinois Courts. An assessment need not be
22 ordered if the court finds a valid assessment related to the
23 present charge pending against the veteran or active duty
24 service member has been completed within the previous 60 days.

25 (b) The judge shall inform the veteran or active duty

1 service member that if the veteran or active duty service
2 member fails to meet the conditions of the military and
3 veterans court program, eligibility to participate in the
4 program may be revoked and the veteran or active duty service
5 member may be sentenced or the prosecution continued as
6 provided in the Criminal Code of 1961 for the crime charged.

7 (c) The veteran or active duty service member shall execute
8 a written agreement as to his or her participation in the
9 program and shall agree to all of the terms and conditions of
10 the program, including but not limited to the possibility of
11 sanctions or incarceration for failing to abide or comply with
12 the terms of the program.

13 (d) In addition to any conditions authorized under the Code
14 of Criminal Procedure of 1963, the court may order the veteran
15 or active duty service member to complete substance abuse
16 treatment or treatment for a mental health condition in an
17 outpatient, inpatient, residential, or detention-based
18 custodial treatment program. Any period of time a veteran or
19 active duty service member shall serve in a detention-based
20 treatment program may not be reduced by the accumulation of
21 good time or other credits and may be for a period of up to 120
22 days.

23 (e) The military and veterans court program shall include a
24 regimen of graduated requirements and rewards and sanctions,
25 including but not limited to: fines, costs, restitution, public
26 service employment, incarceration of up to 120 days, individual

1 and group therapy, drug analysis testing, close monitoring by
2 the court at a minimum of once every 30 days and supervision of
3 progress, educational, mental health, or vocational counseling
4 as appropriate, and other requirements necessary to fulfill the
5 military and veterans court program.

6 Section 30. Substance abuse treatment.

7 (a) The military and veterans court program shall maintain
8 a network of substance abuse, and mental health treatment
9 programs representing a continuum of graduated treatment
10 options commensurate with the needs of veterans and active duty
11 service members.

12 (b) Any substance abuse treatment program to which veterans
13 are referred must meet all of the rules and governing programs
14 in Parts 2030 and 2060 of Title 77 of the Illinois
15 Administrative Code.

16 (c) The military and veterans court program may, at its
17 discretion, employ additional services or interventions, as it
18 deems necessary on a case by case basis.

19 Section 35. Violation; termination; discharge.

20 (a) If the court finds from the evidence presented
21 including but not limited to the reports or proffers of proof
22 from the military and veterans court professionals that:

23 (1) the veteran or active duty service member is not
24 performing satisfactorily in the assigned program;

1 (2) the veteran or active duty service member is not
2 benefitting from education, treatment, or rehabilitation;

3 (3) the veteran or active duty service member has
4 engaged in criminal conduct rendering him or her unsuitable
5 for the program; or

6 (4) the veteran or active duty service member has
7 otherwise violated the terms and conditions of the program
8 or his or her dispositional order or is for any reason
9 unable to participate;

10 the court may impose reasonable sanctions under prior written
11 agreement of the veteran or active duty service member,
12 including but not limited to imprisonment or dismissal of the
13 veteran or active duty service member from the program and the
14 court may reinstate criminal proceedings against him or her or
15 proceed for a violation of probation.

16 (b) Upon successful completion of the terms and conditions
17 of the program by the veteran or active duty service member,
18 the court may dismiss the original charges against the veteran
19 or active duty service member or successfully terminate the
20 veteran or active duty service member's sentence or otherwise
21 discharge him or her from any further proceedings against him
22 or her in the original prosecution.