

By: Ellis, et al.

S.B. No. 112

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of veterans court programs in this state and to pretrial intervention programs.

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

SECTION 1. Subtitle E, Title 7, Health and Safety Code, is amended by adding Chapter 617 to read as follows:

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

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

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

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

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

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

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

1 (7) ongoing judicial interaction with program
2 participants;

3 (8) monitoring and evaluation of program goals and
4 effectiveness;

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

7 (10) development of partnerships with public agencies
8 and community organizations, including the United States
9 Department of Veterans Affairs.

10 (b) If a defendant successfully completes a veterans court
11 program, as authorized under Section 76.011, Government Code, after
12 notice to the attorney representing the state and a hearing in the
13 veterans court at which that court determines that a dismissal is in
14 the best interest of justice, the court in which the criminal case
15 is pending shall dismiss the criminal action against the defendant.

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

17 (a) The commissioners court of a county may establish a veterans
18 court program for persons arrested for or charged with any
19 misdemeanor or felony offense. A defendant is eligible to
20 participate in a veterans court program established under this
21 chapter only if the attorney representing the state consents to the
22 defendant's participation in the program and if the court in which
23 the criminal case is pending finds that the defendant:

24 (1) is a veteran or current member of the United States
25 armed forces, including a member of the reserves, national guard,
26 or state guard; and

27 (2) suffers from a brain injury, mental illness, or

1 mental disorder, including post-traumatic stress disorder, that:

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

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

6 (b) The court in which the criminal case is pending shall
7 allow an eligible defendant to choose whether to proceed through
8 the veterans court program or otherwise through the criminal
9 justice system.

10 (c) Proof of matters described by Subsection (a) may be
11 submitted to the court in which the criminal case is pending in any
12 form the court determines to be appropriate, including military
13 service and medical records, previous determinations of a
14 disability by a veteran's organization or by the United States
15 Department of Veterans Affairs, testimony or affidavits of other
16 veterans or service members, and prior determinations of
17 eligibility for benefits by any state or county veterans office.
18 The court's findings must accompany any docketed case.

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

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

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

26 (3) provide a participant with a court-ordered
27 individualized treatment plan indicating the services that will be

1 provided to the participant; and

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

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

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

12 Sec. 617.004. ESTABLISHMENT OF REGIONAL PROGRAM. The
13 commissioners courts of two or more counties may elect to establish
14 a regional veterans court program under this chapter for the
15 participating counties.

16 Sec. 617.005. OVERSIGHT. (a) The lieutenant governor and
17 the speaker of the house of representatives may assign to
18 appropriate legislative committees duties relating to the
19 oversight of veterans court programs established under this
20 chapter.

21 (b) A legislative committee or the governor may request the
22 state auditor to perform a management, operations, or financial or
23 accounting audit of a veterans court program established under this
24 chapter.

25 (c) A veterans court program established under this chapter
26 shall:

27 (1) notify the criminal justice division of the

1 governor's office before or on implementation of the program; and

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

4 Sec. 617.006. FEES. (a) A veterans court program
5 established under this chapter may collect from a participant in
6 the program:

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

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

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

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

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

17 SECTION 2. Subsection (a), Article 55.01, Code of Criminal
18 Procedure, is amended to read as follows:

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

23 (1) the person is tried for the offense for which the
24 person was arrested and is:

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

27 (B) convicted and subsequently pardoned; or

1 (2) each of the following conditions exist:

2 (A) an indictment or information charging the
3 person with commission of a felony has not been presented against
4 the person for an offense arising out of the transaction for which
5 the person was arrested or, if an indictment or information
6 charging the person with commission of a felony was presented, the
7 indictment or information has been dismissed or quashed, and:

8 (i) the limitations period expired before
9 the date on which a petition for expunction was filed under Article
10 55.02; or

11 (ii) the court finds that the indictment or
12 information was dismissed or quashed because the person completed a
13 pretrial intervention program authorized under Section 76.011,
14 Government Code, or because the presentment had been made because
15 of mistake, false information, or other similar reason indicating
16 absence of probable cause at the time of the dismissal to believe
17 the person committed the offense or because it was void;

18 (B) the person has been released and the charge,
19 if any, has not resulted in a final conviction and is no longer
20 pending and there was no court ordered community supervision under
21 Article 42.12 for any offense other than a Class C misdemeanor; and

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

24 SECTION 3. This Act takes effect September 1, 2009.