88R24332 LHC-D

By:  Wilson H.B. No. 3882

Substitute the following for H.B. No. 3882:

By:  Herrero C.S.H.B. No. 3882

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of a defendant to participate in a veterans treatment court program.

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

SECTION 1.  Section 124.002, Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a)  The commissioners court of a county may establish a veterans treatment court program for persons arrested for, charged with, convicted of, or placed on deferred adjudication community supervision for any misdemeanor or felony offense. A defendant is eligible to participate in a veterans treatment court program established under this chapter only if:

(1)  the attorney representing the state consents to the defendant's participation in the program, subject to Subsection (a-1); and

(2)  [~~if~~] the court in which the criminal case is pending or in which the defendant was convicted or placed on deferred adjudication community supervision, as applicable, finds that the defendant is a veteran or current member of the United States armed forces, including a member of the reserves, national guard, or state guard, who:

(A) [~~(1)~~]  suffers from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder, or was a victim of military sexual trauma if the injury, illness, disorder, or trauma:

(i) [~~(A)~~]  occurred during or resulted from the defendant's military service; and

(ii) [~~(B)~~]  affected the defendant's criminal conduct at issue in the case; or

(B) [~~(2)~~]  is a defendant whose participation in a veterans treatment court program, considering the circumstances of the defendant's conduct, personal and social background, and criminal history, is likely to achieve the objective of ensuring public safety through rehabilitation of the veteran in the manner provided by Section 1.02(1), Penal Code.

(a-1)  If, not later than the 30th day after the date the defendant makes a request to participate in a veterans treatment court program and provides to the court proof of matters described by Subsection (a) as required by Subsection (c), the attorney representing the state has not consented to the defendant's participation in the program under Subsection (a)(1), the defendant may file a motion requesting the court in which the criminal case is pending or in which the defendant was convicted or placed on deferred adjudication community supervision, as applicable, to review the defendant's request to participate in the program. The court may allow the defendant to participate in the veterans treatment court program if the court finds that the defendant otherwise meets the eligibility requirements described by Subsection (a)(2) and all other eligibility requirements prescribed by the specific veterans treatment court program in which the defendant seeks to participate.

(a-2)  Before allowing a defendant to participate in a veterans treatment court program as provided by Subsection (a-1), the court shall provide the attorney representing the state an opportunity to explain the attorney's reason for not consenting to the defendant's participation. If the court allows a defendant to participate in the program without the consent of the attorney representing the state, the court shall provide written notice of that decision to the attorney representing the state and to the defendant not later than the 10th day after the date the court makes the decision.

SECTION 2.  The change in law made by this Act applies only to a criminal case that is pending on or commences on or after the effective date of this Act.

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.