

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

1 AN ACT

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

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

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

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

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

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

23 (A) [~~(1)~~] suffers from a brain injury, mental
24 illness, or mental disorder, including post-traumatic stress

1 disorder, or was a victim of military sexual trauma if the injury,
2 illness, disorder, or trauma:

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

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

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

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

1 which the defendant seeks to participate.

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

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

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