

11102105D

HOUSE BILL NO. 1691

Offered January 12, 2011

Prefiled January 10, 2011

A BILL to amend the Code of Virginia by adding a section numbered 19.2-5.1, relating to the Servicemembers and Veterans Court Act.

Patrons—Stolle, Bulova, Abbott, Keam, Landes, Marshall, R.G., Morgan, Oder, Pollard, Sherwood, Surovell, Toscano, Ward and Watts; Senators: Colgan, Deeds and Puller

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-5.1 as follows:

§ 19.2-5.1. Servicemembers and Veterans Court Act.

A. This section shall be known and may be cited as the "Servicemembers and Veterans Court Act." For purposes of this section, "servicemember" means a person who is presently serving in the armed forces of the United States, a reserve component thereof, including the National Guard. For purposes of this section, "veteran" means a person who has served in the armed forces, to include the Coast Guard, of the United States, a reserve component thereof, including the National Guard, and has been discharged under other than dishonorable conditions, except that the term "veteran" shall not include those service members who have been discharged with a bad conduct or under other than honorable conditions resulting from offenses involving moral turpitude.

B. The General Assembly recognizes that the establishment of specialty treatment courts for veterans and members of the military who are nonviolent offenders will enable the criminal justice system to address challenges veterans and members of the military face as a result of their honorable service. It is the intent of the General Assembly by this section to (i) provide veterans and members of the military who are nonviolent offenders with an alternative to incarceration; (ii) permit veterans and members of the military to access proper treatment for mental illness, alcohol or drug abuse, post traumatic stress disorder, or traumatic brain injury, any of which appear to be related to military service, including, without limitation, any readjustment to civilian life that is necessary after service in the armed services; and (iii) enhance public safety, by facilitating the creation of servicemembers and veterans courts as means by which to accomplish these purposes.

C. The goals of servicemembers and veterans courts include: (i) reducing drug and alcohol addiction and drug and alcohol dependency among offenders who are veterans or members of the military; (ii) reducing recidivism; (iii) reducing drug-related court workloads; (iv) increasing personal, familial, and societal accountability among offenders who are veterans or members of the military; and (v) promoting effective planning and use of resources among the criminal justice system and community agencies.

D. Servicemembers and veterans courts are specialized court dockets within the existing structure of Virginia's court system offering judicial monitoring of intensive treatment and strict supervision of offenders who appear to suffer from mental illness, alcohol or drug abuse, post traumatic stress disorder, or traumatic brain injury, any of which appear to be related to military service, including, without limitation, any readjustment to civilian life that is necessary after service in the armed services. Localities, or combinations of localities, may establish a servicemembers and veterans courts. Local officials shall complete a recognized planning process before establishing a servicemembers and veterans court program.

E. Administrative oversight for implementation of the Servicemembers and Veterans Court Act shall be conducted by the Supreme Court of Virginia. The Supreme Court of Virginia shall be responsible for (i) providing technical assistance to service members and veterans courts; (ii) providing training for judges who preside over servicemembers and veterans courts; (iii) providing training to the providers of administrative, case management, and treatment services to servicemembers and veterans courts; and (iv) monitoring the completion of evaluations of the effectiveness and efficiency of servicemembers and veterans courts in the Commonwealth.

F. A state servicemembers and veterans court advisory committee shall be established to (i) evaluate and recommend standards for the planning and implementation of servicemembers and veterans courts; (ii) assist in the evaluation of their effectiveness and efficiency; and (iii) encourage and enhance cooperation among agencies that participate in their planning and implementation. The committee shall be chaired by the Chief Justice of the Supreme Court of Virginia or his designee and shall include a member of the Judicial Conference of Virginia; the Executive Secretary or his designee; the directors of the following executive branch agencies: Department of Corrections, Department of Criminal Justice

INTRODUCED

HB1691

58 *Services, Department of Veterans Affairs, Department of Behavioral Health and Developmental Services,*
59 *Department of Social Services; a representative of the following entities: a local community-based*
60 *probation and pretrial services agency, the Virginia Association of Commonwealth's Attorneys, the*
61 *Virginia Indigent Defense Commission, the Virginia Court Clerks Association, the Virginia Sheriff's*
62 *Association, the Virginia Association of Chiefs of Police, the Commission on VASAP, and two*
63 *representatives designated by the Virginia Drug Court Association.*

64 *G. Each locality or combination of localities that intend to establish a servicemembers and veterans*
65 *court shall establish a local servicemembers and veterans court advisory committee. Each advisory*
66 *committee shall ensure quality, efficiency, and fairness in the planning, implementation, and operation of*
67 *the servicemembers and veterans court that serves the locality or combination of localities. Advisory*
68 *committee membership shall include, but shall not be limited to the following people or their designees:*
69 *(i) the chief general district court judge of each court that intends to establish a servicemembers and*
70 *veterans court ; (ii) the attorney for the Commonwealth, or, where applicable, the city or county*
71 *attorney who has responsibility for the prosecution of misdemeanor offenses; (iii) the public defender or*
72 *a member of the local criminal defense bar in localities in which there is no public defender; (iv) the*
73 *clerk of the court in which the servicemembers and veterans court is located; (v) a representative of the*
74 *Virginia Department of Corrections from the local office that serves the locality or combination of*
75 *localities; (vi) a representative of a local community-based probation and pretrial services agency; (vii)*
76 *a local law-enforcement officer; (viii) a representative of the Department of Behavioral Health and*
77 *Developmental Services or a representative of local drug treatment providers; (ix) a representative of*
78 *the Department of Social Services; (x) county administrator or city manager; and (xi) any other people*
79 *selected by the servicemembers and veterans court advisory committee.*

80 *H. Each local servicemembers and veterans court advisory committee shall establish criteria for the*
81 *eligibility and participation of offenders who appear to suffer from mental illness, alcohol or drug*
82 *abuse, post traumatic stress disorder, or traumatic brain injury, any of which appear to be related to*
83 *military service, including, without limitation, any readjustment to civilian life that is necessary after*
84 *service in the armed services. Subject to the provisions of this section, neither the establishment of a*
85 *servicemembers and veterans court nor anything herein shall be construed as limiting the discretion of*
86 *the attorney for the Commonwealth to prosecute any criminal case arising therein that he deems*
87 *advisable to prosecute, except to the extent the participating attorney for the Commonwealth agrees to*
88 *do so. As defined in § 17.1-805 or 19.2-297.1, adult offenders who have been convicted of a violent*
89 *criminal offense within the preceding 10 years, or juvenile offenders who previously have been*
90 *adjudicated not innocent of any such offense within the preceding 10 years, shall not be eligible for*
91 *participation in any servicemembers and veterans court established or continued in operation pursuant*
92 *to this section.*

93 *I. Each servicemembers and veterans court advisory committee shall establish policies and*
94 *procedures for the operation of the court to attain the following goals: (i) effective integration of*
95 *treatment and counseling services with criminal justice system case processing; (ii) enhanced public*
96 *safety through intensive offender supervision, counseling, and treatment; (iii) prompt identification and*
97 *placement of eligible participants; (iv) efficient access to a continuum of treatment, rehabilitation, and*
98 *counseling services; (v) where appropriate, verified participant abstinence through frequent alcohol and*
99 *other drug testing; (vi) prompt response to participants' noncompliance with program requirements*
100 *through a coordinated strategy; (vii) ongoing judicial interaction with each servicemembers and*
101 *veterans court participant; (viii) ongoing monitoring and evaluation of program effectiveness and*
102 *efficiency; (ix) ongoing interdisciplinary education and training in support of program effectiveness and*
103 *efficiency; and (x) ongoing collaboration among servicemembers and veterans courts, public agencies,*
104 *and community-based organizations to enhance program effectiveness and efficiency.*

105 *J. Participation by an offender in a servicemembers and veterans court shall be voluntary and made*
106 *pursuant only to a written agreement entered into by and between the offender and the Commonwealth*
107 *with the concurrence of the court.*

108 *K. Nothing in this section shall preclude the establishment of substance abuse treatment programs*
109 *and services pursuant to the deferred judgment provisions of § 18.2-251.*

110 *L. Each offender shall contribute to the cost of the substance abuse treatment, rehabilitation, and*
111 *counseling services he receives while participating in a servicemembers and veterans court pursuant to*
112 *guidelines developed by the servicemembers and veterans court advisory committee.*

113 *M. Nothing contained in this section shall confer a right or an expectation of a right to treatment for*
114 *an offender or be construed as requiring a local servicemembers and veterans court advisory committee*
115 *to accept for participation every offender.*

116 *N. The Office of the Executive Secretary shall, with the assistance of the state servicemembers and*
117 *veterans court advisory committee, develop a statewide evaluation model and conduct ongoing*
118 *evaluations of the effectiveness and efficiency of all local servicemembers and veterans courts. A report*
119 *of these evaluations shall be submitted to the General Assembly by December 1 of each year. Each*

120 *local servicemembers and veterans court advisory committee shall submit evaluative reports to the*
121 *Office of the Executive Secretary as requested.*
122 *O. A locality or combination of localities may establish a local servicemembers and veterans court*
123 *provided that such court is funded solely through local sources.*
124

INTRODUCED

HB1691