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HOUSE BILL NO. 96

Offered January 13, 2016

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A BILL to amend and reenact § 2.2-2001.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-254.2, relating to the Problem-Solving Court Act.

Patrons—Lingamfelter, Wilt and Freitas

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2001.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-254.2 as follows:

§ 2.2-2001.1. Program for mental health and rehabilitative services.

The Department, in cooperation with the Department of Behavioral Health and Developmental Services and the Department for Aging and Rehabilitative Services, shall establish a program to monitor and coordinate mental health and rehabilitative services support for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service. The program shall also support family members affected by covered military members' service and deployments. The purpose of the program is to ensure that adequate and timely assessment, treatment, and support are available to veterans, service members, and affected family members.

The program shall facilitate support for covered individuals to provide timely assessment and treatment for stress-related injuries and traumatic brain injuries resulting from military service, and subject to the availability of public and private funds appropriated for them, case management services, outpatient, family support, and other appropriate behavioral health and brain injury services necessary to provide individual services and support.

The program shall cooperate with localities that may establish special treatment procedures for veterans and active military service members such as authorized by §§ 9.1-173 and 9.1-174. To facilitate local involvement and flexibility in responding to the problem of crime in local communities and to effectively treat, counsel, rehabilitate, and supervise veterans and active military service members who are offenders or defendants in the criminal justice system and who need access to proper treatment for mental illness including major depression, alcohol or drug abuse, post traumatic stress disorder, traumatic brain injury or a combination of these, any city, county, or combination thereof, may develop, establish, and maintain policies, procedures, and treatment services for all such offenders who are convicted and sentenced for misdemeanors or felonies that are not felony acts of violence, as defined in § 19.2-297.1. Such policies, procedures, and treatment services shall be designed to provide:

1. Coordination of treatment and counseling services available to the criminal justice system case processing;
2. Enhanced public safety through offender supervision, counseling, and treatment;
3. Prompt identification and placement of eligible participants;
4. Access to a continuum of treatment, rehabilitation, and counseling services in collaboration with such care providers as are willing and able to provide the services needed;
5. Where appropriate, verified participant abstinence through frequent alcohol and other drug testing;
6. Prompt response to participants' noncompliance with program requirements;
7. Ongoing monitoring and evaluation of program effectiveness and efficiency;
8. Ongoing education and training in support of program effectiveness and efficiency;
9. Ongoing collaboration among public agencies, community-based organizations and the U.S. Department of Veterans Affairs health care networks, the Veterans Benefits Administration, volunteer veteran mentors, and veterans and military family support organizations; and

10. The creation of a veterans and military service members' advisory council to provide input on the operations of such programs. The council shall include individuals responsible for the criminal justice procedures program along with veterans and, if available, active military service members. The program shall also cooperate and coordinate with localities that have established problem-solving courts pursuant to § 18.2-254.2.

§ 18.2-254.2. Problem-Solving Court Act.

A. This section shall be known and may be cited as the "Problem-Solving Court Act."

B. The General Assembly recognizes the critical need to promote public safety and reduce recidivism by addressing substance abuse, mental illness, issues unique to military service experienced by Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces

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59 *Reserves not in active federal service, and issues related to previously incarcerated persons in the*
60 *criminal justice system. It is the intention of the General Assembly to enhance public safety by*
61 *facilitating the creation of problem-solving courts to accomplish this purpose.*

62 *C. The goals of problem-solving courts shall include (i) reducing recidivism; (ii) increasing personal,*
63 *familial, and societal accountability among offenders through ongoing judicial intervention; (iii)*
64 *reducing substance abuse, while addressing mental illness and other conditions that contribute to*
65 *criminal behavior and recidivism; (iv) promoting law-abiding behavior and successful reentry of*
66 *offenders following incarceration; and (v) promoting effective planning and use of resources within the*
67 *criminal justice system and community agencies. Problem-solving courts promote outcomes that will*
68 *benefit not only the offender, but society as well.*

69 *D. Problem-solving courts are specialized criminal court dockets within the existing structure of*
70 *Virginia's court system that enable the judiciary to manage its workload more efficiently. Under the*
71 *leadership and regular interaction of presiding judges, and through voluntary offender participation,*
72 *problem-solving courts shall address underlying offender needs and conditions that contribute to*
73 *criminal behavior. Such needs and conditions shall include, but not be limited to, veteran's status,*
74 *mental illness, and societal reentry. Problem-solving courts shall employ evidence-based practices to*
75 *enhance public safety, reduce recidivism, ensure offender accountability, and promote offender*
76 *rehabilitation in the community. Local officials must complete a planning process recognized by the*
77 *state problem-solving court docket advisory committee before establishing a problem-solving court*
78 *program.*

79 *E. Administrative oversight for implementation of the Problem-Solving Court Act shall be conducted*
80 *by the Supreme Court of Virginia. The Supreme Court of Virginia shall be responsible for (i) providing*
81 *oversight for the distribution of funds for problem-solving court dockets; (ii) providing technical*
82 *assistance to problem-solving court dockets; (iii) providing training for judges who preside over*
83 *problem-solving court dockets; (iv) providing training to the providers of administrative, case*
84 *management, and treatment services to problem-solving court dockets; and (v) monitoring the*
85 *completion of evaluations of the effectiveness and efficiency of problem-solving court dockets in the*
86 *Commonwealth.*

87 *F. A state problem-solving court docket advisory committee shall be established in the judicial*
88 *branch. The committee shall be chaired by the Chief Justice of the Supreme Court of Virginia, who will*
89 *appoint a vice-chair to act in his absence. The membership of the committee shall include a*
90 *problem-solving circuit court judge, a problem-solving general district court judge, a problem-solving*
91 *juvenile and domestic relations district court judge, the Executive Secretary of the Supreme Court or his*
92 *designee, the Governor or his designee, and a representative from each of the following entities: the*
93 *Commonwealth's Attorney's Association; the Virginia Indigent Defense Commission; the Department of*
94 *Veterans Services; the Department of Behavioral Health and Developmental Services; and a local*
95 *community-based probation and pretrial services agency.*

96 *G. Each jurisdiction or combination of jurisdictions that intend to establish a problem-solving court*
97 *or continue the operation of an existing problem-solving court shall establish a local problem-solving*
98 *court advisory committee. Jurisdictions that establish separate adult and juvenile problem-solving courts*
99 *may establish an advisory committee for each such court. Each local problem-solving court advisory*
100 *committee shall ensure quality, efficiency, and fairness in the planning, implementation, and operation of*
101 *the problem-solving court or courts that serve the jurisdiction or combination of jurisdictions. Advisory*
102 *committee membership may include, but shall not be limited to, the following persons or their designees:*
103 *(i) the problem-solving court judge; (ii) the attorney for the Commonwealth or, where applicable, the*
104 *city or county attorney who has responsibility for the prosecution of misdemeanor offenses; (iii) the*
105 *public defender or a member of the local criminal defense bar in jurisdictions in which there is no*
106 *public defender; (iv) the clerk of the court in which the problem-solving court is located; (v) a*
107 *representative of the Virginia Department of Corrections or the Department of Juvenile Justice, or both,*
108 *from the local office that serves the jurisdiction or combination of jurisdictions; (vi) a representative of*
109 *a local community-based probation and pretrial services agency; (vii) a local law-enforcement officer;*
110 *(viii) a representative of the Department of Behavioral Health and Developmental Services or a*
111 *representative of local treatment providers; (ix) a representative of the local Virginia Community*
112 *Services Board; (x) the problem-solving court administrator; (xi) a representative of the Department of*
113 *Social Services; (xii) a liaison representative of the Virginia Department of Veterans Services; (xiii) a*
114 *public health official; (xiv) the county administrator or city manager; and (xv) any other persons*
115 *selected by the problem-solving court advisory committee.*

116 *H. Each local problem-solving court advisory committee shall establish criteria for the eligibility and*
117 *participation of offenders who have been determined to have addiction, issues stemming from military*
118 *service, mental illness, societal reentry difficulties, or other problems. Subject to the provisions of this*
119 *section, neither the establishment of a problem-solving court nor anything herein shall be construed as*
120 *limiting the discretion of the attorney for the Commonwealth to prosecute any criminal case arising*

121 therein that he deems advisable to prosecute, except to the extent the participating attorney for the
122 Commonwealth agrees to do so. As defined in § 19.2-297.1, adult offenders who have been convicted of
123 a violent criminal offense within the preceding 10 years, or juvenile offenders who previously have been
124 adjudicated not innocent of any such offense within the preceding 10 years, shall not be eligible for
125 participating in any problem-solving court established or continued in operation pursuant to this
126 section.

127 I. Each local problem-solving court advisory committee shall establish policies and procedures for
128 the operation of the court to attain the following goals: (i) effective integration of appropriate treatment
129 services with criminal justice system case processing; (ii) enhanced public safety through intensive
130 offender supervision and treatment; (iii) prompt identification and placement of eligible participants; (iv)
131 efficient access to a continuum of related treatment and rehabilitation services; (v) verified participant
132 abstinence through frequent alcohol and other drug testing, where applicable; (vi) prompt response to
133 participants' noncompliance with program requirements through a coordinated strategy; (vii) ongoing
134 judicial interaction with each problem-solving court participant; (viii) ongoing monitoring and
135 evaluation of program effectiveness and efficiency; (ix) ongoing interdisciplinary education and training
136 in support of program effectiveness and efficiency; and (x) ongoing collaboration among
137 problem-solving courts, public agencies, and community-based organizations to enhance program
138 effectiveness and efficiency.

139 J. Participation by an offender in a problem-solving court docket shall be voluntary and made
140 pursuant only to a written agreement entered into by and between the offender and the Commonwealth
141 with the concurrence of the court.

142 K. Each offender shall contribute to the cost of the treatment he receives while participating in a
143 problem-solving court docket pursuant to guidelines developed by the local problem-solving court
144 advisory committee.

145 L. Nothing contained in this section shall confer a right or an expectation of a right to treatment for
146 an offender or be construed as requiring a local problem-solving court advisory committee to accept for
147 participation every offender.

148 M. The Office of the Executive Secretary shall, with the assistance of the state problem-solving court
149 docket advisory committee, develop a statewide evaluation model and conduct ongoing evaluations of
150 the effectiveness and efficiency of all problem-solving court dockets. A report of these evaluations shall
151 be submitted to the General Assembly by December 1 of each year. Each local problem-solving court
152 advisory committee shall submit evaluative reports to the Office of the Executive Secretary as requested.