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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

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

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

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

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

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

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