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SENATE BILL NO. 26

Offered January 13, 2016

Prefiled December 10, 2015

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 Docket Act.

Patrons—Reeves; Delegates: Freitas, Kory, Rasoul and Simon

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. *The program shall also cooperate and coordinate with localities that have established problem-solving dockets pursuant to § 18.2-254.2. 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.

§ 18.2-254.2. Problem-Solving Docket Act.

A. This section shall be known and may be cited as the "Problem-Solving Docket 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 dockets to accomplish this purpose.*

62 *C. The goals of problem-solving dockets shall include (i) reducing recidivism; (ii) increasing*
63 *personal, familial, and societal accountability among offenders through ongoing judicial intervention;*
64 *(iii) 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 dockets promote outcomes that will*
68 *benefit not only the offender, but society as well.*

69 *D. Problem-solving dockets 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 dockets 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 dockets 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 shall complete a planning process recognized by the*
77 *state problem-solving docket advisory committee before establishing a problem-solving docket program.*

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

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

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

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

121 participating attorney for the Commonwealth agrees to do so. No adult offender who has been
122 convicted of an act of violence, as defined in § 19.2-297.1, within the preceding 10 years, and no
123 juvenile offender who has previously have been adjudicated not innocent of any such offense within the
124 preceding 10 years, shall be eligible to participate in any problem-solving docket established or
125 continued in operation pursuant to this section.

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

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

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

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

147 M. The Office of the Executive Secretary shall, with the assistance of the state problem-solving
148 docket advisory committee, develop a statewide evaluation model and conduct ongoing evaluations of
149 the effectiveness and efficiency of all problem-solving dockets. The Executive Secretary shall submit an
150 annual report of these evaluations to the General Assembly by December 1 of each year. The annual
151 report shall be submitted as a report document as provided in the procedures of the Division of
152 Legislative Automated Systems for the processing of legislative documents and reports and shall be
153 posted on the General Assembly's website. Each local problem-solving docket advisory committee shall
154 submit evaluative reports to the Office of the Executive Secretary as requested.