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SENATE BILL NO. 592

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend the Code of Virginia by adding a section numbered 19.2-5.1, relating to veterans' mental health courts.*

Patrons—Miller, J.C., Colgan, Edwards, Quayle and Stuart; Delegates: Anderson, BaCote and Morgan

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. Veterans' mental health courts.

A. 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, or the National Guard.

B. The General Assembly recognizes that the establishment of specialty treatment courts for veterans who are nonviolent offenders will enable the criminal justice system to address challenges veterans face as a result of their service. It is the intent of the General Assembly by this section to (i) provide veterans who are nonviolent offenders with an alternative to incarceration; (ii) permit veterans to access proper treatment for mental illness, an alcohol or substance use disorder, 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 veterans' mental health courts as means by which to accomplish these purposes.

C. The goals of veterans' mental health courts include (i) providing appropriate mental health treatment; (ii) ensuring adherence to mental health treatment; (iii) reducing, and promoting recovery from, drug and alcohol addiction and drug and alcohol dependency among offenders who are veterans; (iv) reducing recidivism; (v) reducing drug-related court workloads; (vi) increasing personal, familial, and societal accountability among offenders who are veterans; and (vii) promoting effective planning and use of resources among the criminal justice system, community agencies, the Department of Veterans Affairs, and hospitals operated by the Veterans Administration.

D. Veterans' mental health 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 are affected by mental illness, an alcohol or substance use disorder, 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. Local officials must complete a recognized planning process before establishing a veterans' mental health court program.

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

F. The Virginia Veterans' Mental Health Court Advisory Committee shall be established to (i) evaluate and recommend standards for the planning and implementation of veterans' mental health 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 the Executive Secretary of the Supreme Court or his designee; a member of the Judicial Conference of Virginia; a representative of, and appointed by, respectively, each of the following entities: the Virginia Association of Commonwealth's Attorneys, the Virginia Indigent Defense Commission, the Virginia Court Clerks' Association, the Virginia Sheriffs' Association, the Virginia Association of Chiefs of Police, the Commission on VASAP, and the Virginia Wounded Warrior Program; and the directors of the following executive branch agencies: Department of Corrections, Department of Criminal Justice Services, Department of Veterans Affairs, Department of Behavioral Health and Developmental Services, and Department of Social Services.

G. Each jurisdiction or combination of jurisdictions that intend to establish a veterans' mental health

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59 court shall establish a local veterans' mental health court advisory committee. Each advisory committee
60 shall ensure quality, efficiency, and fairness in the planning, implementation, and operation of the
61 veterans' mental health court that serves the jurisdiction or combination of jurisdictions. Advisory
62 committee membership shall include but shall not be limited to the following persons or their designees:
63 (i) the chief general district judge of each jurisdiction that intends to establish a veterans' mental health
64 court; (ii) the attorney for the Commonwealth or, where applicable, the city or county attorney who has
65 responsibility for the prosecution of misdemeanor offenses; (iii) the public defender or a member of the
66 local criminal defense bar in jurisdictions in which there is no public defender; (iv) the clerk of the
67 court in which the veterans' mental health court is located; (v) a representative of the Virginia
68 Department of Corrections from the local office that serves the jurisdiction or combination of
69 jurisdictions; (vi) a representative of a local community-based probation and pretrial services agency;
70 (vii) a local law-enforcement officer; (viii) a representative of the community services board; (ix) a
71 representative of the Department of Social Services; (x) the county administrator or city manager; (xi)
72 the regional director of the Wounded Warrior Program if such director is a resident of a jurisdiction
73 that intends to establish a veterans' mental health court; and (xii) any other persons selected by the
74 veterans' mental health court advisory committee.

75 H. Each local veterans' mental health court advisory committee shall establish criteria for the
76 eligibility and participation of offenders who have been diagnosed with or assessed to have a mental
77 illness, an alcohol or substance use disorder, post-traumatic stress disorder, or traumatic brain injury,
78 any of which appear to be related to military service, including, without limitation, any readjustment to
79 civilian life that is necessary after service in the armed services. Subject to the provisions of this
80 section, neither the establishment of a veterans' mental health court nor anything herein shall be
81 construed as limiting the discretion of the attorney for the Commonwealth to prosecute any criminal
82 case arising therein that he deems advisable to prosecute, except to the extent the participating attorney
83 for the Commonwealth agrees to do so. Adult offenders who have been convicted of a violent criminal
84 offense, as defined in § 17.1-805 or 19.2-297.1, within the preceding 10 years shall not be eligible for
85 participation in any veterans' mental health court established or continued in operation pursuant to this
86 section.

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

99 J. Participation by an offender in a veterans' mental health court shall be voluntary and made
100 pursuant only to a written agreement entered into by and between the offender and the Commonwealth
101 with the concurrence of the court.

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

104 L. Each offender shall contribute to the cost of the mental health treatment, substance abuse
105 treatment, post-traumatic stress disorder treatment, traumatic brain injury treatment, and psychiatric,
106 rehabilitation, and counseling services he receives while participating in a veterans' mental health court
107 pursuant to guidelines developed by the Virginia Veterans' Mental Health Court Advisory Committee.

108 M. Nothing contained in this section shall confer a right or an expectation of a right to treatment for
109 an offender or be construed as requiring a local veterans' mental health court advisory committee to
110 accept for participation every offender.

111 N. The Office of the Executive Secretary shall, with the assistance of the Virginia Veterans' Mental
112 Health Court Advisory Committee, develop an evaluation model and conduct ongoing evaluations of the
113 effectiveness and efficiency of all local veterans' mental health courts. A report of these evaluations
114 shall be submitted to the General Assembly by December 1 of each year. Each local veterans' mental
115 health court advisory committee shall submit evaluative reports to the Office of the Executive Secretary
116 as requested.

117 O. Notwithstanding any other provision of this section, no veterans' mental health court shall be
118 established subsequent to July 1, 2010, unless the jurisdiction or jurisdictions intending or proposing to
119 establish such court have been specifically granted permission under the Code of Virginia to establish
120 such court.

121 *P. Subject to the requirements and conditions established by the Virginia Veterans' Mental Health*
122 *Court Advisory Committee, there may be established a veterans' mental health court in any jurisdiction*
123 *in Planning District 23, provided that such court and reimbursement to the Supreme Court of Virginia*
124 *for its provision of administrative oversight over such court pursuant to subsection E is funded solely*
125 *through local sources.*

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