

785

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. DESTITO, PEOPLES-STOKES, PHEFFER, GLICK, LANCMAN,
O'DONNELL -- Multi-Sponsored by -- M. of A. CANESTRARI, McENENY --
read once and referred to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to the establishment of a
pilot program for courts for the treatment of veterans; and providing
for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The judiciary law is amended by adding a new article 5-C to
2 read as follows:

3 ARTICLE 5-C

4 VETERANS COURTS PILOT PROGRAM

5 SECTION 178-A. ESTABLISHMENT OF COURTS FOR VETERANS; PILOT PROGRAM.

6 178-B. TRANSFER OF CASES TO COURTS FOR TREATMENT OF VETERANS;
7 HOW EFFECTUATED.

8 178-C. PROCEDURE IN A COURT FOR VETERANS UPON TRANSFER OF CASE
9 THERETO.

10 S 178-A. ESTABLISHMENT OF COURTS FOR VETERANS; PILOT PROGRAM. THE
11 CHIEF ADMINISTRATOR OF THE COURTS, BY ADMINISTRATIVE ORDER, IS AUTHOR-
12 IZED AND DIRECTED TO ESTABLISH A COURT FOR VETERANS IN THE CITY COURT OF
13 THE CITY OF UTICA, AND IN THE SUPREME COURTS OF THE CITY OF NEW YORK,
14 AND ASSIGN ONE OR MORE JUSTICES OR JUDGES TO PRESIDE THEREIN. SUCH COURT
15 FOR VETERANS SHALL HAVE AS ITS PURPOSE THE HEARING AND DETERMINATION OF:

16 (A) CRIMINAL CASES THAT ARE COMMENCED IN THE CITY COURT AGAINST A
17 DEFENDANT IDENTIFIED AS A VETERAN; AND

18 (B) CRIMINAL CASES THAT ARE COMMENCED IN OTHER COURTS OF THE COUNTY,
19 AND THAT ARE IDENTIFIED AS APPROPRIATE FOR DISPOSITION BY THE VETERANS
20 COURT AND TRANSFERRED TO THE COURT AS PROVIDED IN SECTION ONE HUNDRED
21 SEVENTY-EIGHT-B OF THIS ARTICLE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD01805-01-1

1 S 178-B. TRANSFER OF CASES TO COURTS FOR TREATMENT OF VETERANS; HOW
2 EFFECTUATED. (A) TRANSFER OF CASES PENDING IN LOCAL CRIMINAL COURTS.

3 (1) A LOCAL CRIMINAL COURT IN A COUNTY IN WHICH A COURT FOR VETERANS
4 HAS BEEN ESTABLISHED UNDER THIS ARTICLE MAY, UPON MOTION OF THE DEFEND-
5 ANT AND WITH THE CONSENT OF THE DISTRICT ATTORNEY, CAUSE COPIES OF
6 PAPERS AND OTHER DOCUMENTS FILED IN SUCH LOCAL CRIMINAL COURT IN
7 CONNECTION WITH A CRIMINAL ACTION OR PROCEEDING PENDING THEREIN TO BE
8 SENT TO THE COURT FOR VETERANS:

9 (I) UPON OR AFTER ARRAIGNMENT OF THE DEFENDANT ON A LOCAL CRIMINAL
10 COURT ACCUSATORY INSTRUMENT BY WHICH SUCH ACTION OR PROCEEDING WAS
11 COMMENCED; OR

12 (II) UPON OR AFTER COMMENCEMENT OF A PROCEEDING BROUGHT AGAINST A
13 DEFENDANT FOR THE VIOLATION OF A CONDITION OF A SENTENCE OF PROBATION OR
14 A SENTENCE OF CONDITIONAL DISCHARGE.

15 (2) NOT LATER THAN FIVE DAYS FOLLOWING RECEIPT OF THE PAPERS AND OTHER
16 DOCUMENTS, THE JUSTICE OR JUDGE PRESIDING IN THE COURT FOR VETERANS
17 SHALL DETERMINE WHETHER OR NOT A TRANSFER OF THE ACTION OR PROCEEDING TO
18 THE COURT WOULD PROMOTE THE ADMINISTRATION OF JUSTICE. IF THE JUSTICE OR
19 JUDGE PRESIDING IN THE COURT DETERMINES THAT IT WOULD, HE OR SHE MAY
20 ORDER SUCH TRANSFER, IN WHICH EVENT THE ACTION OR PROCEEDING SHALL BE
21 TRANSFERRED TO THE COURT FOR VETERANS, ALL ORIGINATING PAPERS SHALL THEN
22 BE SENT FROM THE ORIGINATING COURT TO THE COURT FOR VETERANS, AND ALL
23 FURTHER PROCEEDINGS SHALL BE CONDUCTED THEREIN. IF THE JUSTICE OR JUDGE
24 DETERMINES THAT A TRANSFER OF THE ACTION OR PROCEEDING WOULD NOT PROMOTE
25 THE ADMINISTRATION OF JUSTICE, HE OR SHE SHALL NOTIFY THE LOCAL CRIMINAL
26 COURT OR OTHER COURT FROM WHICH THE REFERENCE WAS RECEIVED OF SUCH
27 DETERMINATION, WHEREUPON ALL FURTHER PROCEEDINGS IN SUCH ACTION OR
28 PROCEEDING SHALL BE CONDUCTED IN ACCORDANCE WITH LAW.

29 (B) TRANSFER OF CASES PENDING IN SUPERIOR COURTS.

30 (1) AT ANY TIME WHILE A CRIMINAL ACTION OR PROCEEDING IS PENDING IN A
31 SUPERIOR COURT IN A COUNTY IN WHICH A COURT FOR VETERANS HAS BEEN ESTAB-
32 LISHED, INCLUDING A PROCEEDING BROUGHT AGAINST A DEFENDANT FOR THE
33 VIOLATION OF A CONDITION OF A SENTENCE OF PROBATION OR A SENTENCE OF
34 CONDITIONAL DISCHARGE, A JUDGE OR JUSTICE OF THE COURT IN WHICH THE
35 ACTION OR PROCEEDING IS PENDING MAY, UPON MOTION OF THE DEFENDANT AND
36 WITH THE CONSENT OF THE DISTRICT ATTORNEY, CAUSE COPIES OF PAPERS AND
37 OTHER DOCUMENTS FILED IN SUCH COURT IN CONNECTION WITH THE ACTION OR
38 PROCEEDING TO BE SENT TO THE JUDGE OR JUSTICE PRESIDING IN THE COURT FOR
39 VETERANS FOR REVIEW OF THE APPROPRIATENESS OF THE TRANSFER.

40 (2) NOT LATER THAN FIVE BUSINESS DAYS FOLLOWING RECEIPT OF THE PAPERS
41 AND OTHER DOCUMENTS, THE JUDGE OR JUSTICE PRESIDING IN THE COURT FOR
42 VETERANS SHALL DETERMINE WHETHER OR NOT A TRANSFER OF THE ACTION OR
43 PROCEEDING TO THE COURT WOULD PROMOTE THE ADMINISTRATION OF JUSTICE. IF
44 SUCH JUDGE OR JUSTICE DETERMINES THAT IT WOULD:

45 (I) HE OR SHE, IF SITTING IN SUPREME COURT, MAY ORDER SUCH TRANSFER,
46 IN WHICH EVENT THE ACTION OR PROCEEDING SHALL BE REFERRED FOR DISPOSI-
47 TION TO THE COURT FOR VETERANS, ALL ORIGINAL PAPERS SHALL BE SENT TO THE
48 COURT FOR VETERANS, AND ALL FURTHER PROCEEDINGS IN SUCH ACTION OR
49 PROCEEDING SHALL BE CONDUCTED THEREIN; OR

50 (II) HE OR SHE, IF SITTING IN COUNTY COURT, SHALL SO NOTIFY THE
51 JUSTICE OF THE COURT WHO CAUSED THE PAPERS AND OTHER DOCUMENTS TO BE
52 SENT TO HIM OR HER, AND SUCH JUSTICE MAY THEREUPON ORDER SUCH TRANSFER,
53 IN WHICH EVENT THE ACTION OR PROCEEDING SHALL BE REFERRED FOR DISPOSI-
54 TION TO THE COURT FOR VETERANS, ALL ORIGINAL PAPERS SHALL BE SENT FROM
55 THE ORIGINATING COURT TO THE COURT FOR VETERANS, AND ALL FURTHER
56 PROCEEDINGS IN SUCH ACTION OR PROCEEDING SHALL BE CONDUCTED THEREIN. IF

1 THE JUDGE OR JUSTICE PRESIDING IN THE COURT FOR VETERANS DETERMINES THAT
2 A TRANSFER OF THE ACTION OR PROCEEDING WOULD NOT PROMOTE THE ADMINIS-
3 TRATION OF JUSTICE, HE OR SHE SHALL NOTIFY THE ORIGINATING COURT OF SUCH
4 DETERMINATION, WHEREUPON ALL FURTHER PROCEEDINGS IN SUCH ACTION OR
5 PROCEEDING SHALL BE CONDUCTED IN ACCORDANCE WITH LAW.

6 S 178-C. PROCEDURE IN A COURT FOR VETERANS UPON TRANSFER OF CASE THER-
7 ETO. EACH ACTION OR PROCEEDING TRANSFERRED FROM A LOCAL CRIMINAL COURT
8 TO A SUPERIOR COURT AND REFERRED FOR DISPOSITION TO A COURT FOR VETERANS
9 THEREOF SHALL BE SUBJECT TO THE SAME SUBSTANTIVE AND PROCEDURAL LAW AS
10 WOULD HAVE APPLIED TO IT HAD IT NOT BEEN TRANSFERRED.

11 S 2. This act shall take effect on the first of January next succeed-
12 ing the date on which it shall have become a law and shall expire and be
13 deemed repealed 2 years after such effective date.