S T A T E O F N E W Y O R K

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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

ARTICLE 5-C

VETERANS COURTS PILOT PROGRAM

SECTION 178-A. ESTABLISHMENT OF COURTS FOR VETERANS; PILOT PROGRAM.
178-B. TRANSFER OF CASES TO COURTS FOR TREATMENT OF VETERANS; HOW EFFECTUATED.
178-C. PROCEDURE IN A COURT FOR VETERANS UPON TRANSFER OF CASE THERETO.

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

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

(B) CRIMINAL CASES THAT ARE COMMENCED IN OTHER COURTS OF THE COUNTY, AND THAT ARE IDENTIFIED AS APPROPRIATE FOR DISPOSITION BY THE VETERANS COURT AND TRANSFERRED TO THE COURT AS PROVIDED IN SECTION ONE HUNDRED 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

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

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

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

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

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

(B) TRANSFER OF CASES PENDING IN SUPERIOR COURTS.

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

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

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

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

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

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

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