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

7814

I N S E N A T E

June 11, 2014

Introduced by Sen. ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to veterans courts

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

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

S 178-A. ESTABLISHMENT OF COURTS FOR VETERANS. THE CHIEF ADMINISTRATOR OF THE COURTS, BY ADMINISTRATIVE ORDER, IS AUTHORIZED AND DIRECTED TO ESTABLISH A COURT FOR VETERANS IN ANY CRIMINAL COURT IN THE STATE, 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:

1. CRIMINAL CASES THAT ARE COMMENCED IN THE COURT FOR VETERANS AGAINST A DEFENDANT IDENTIFIED AS A VETERAN; AND

2. CRIMINAL CASES THAT ARE COMMENCED IN OTHER COURTS OF THE COUNTY OR COURTS IN ANOTHER COUNTY WITHIN THE JUDICIAL DISTRICT, AND THAT ARE IDENTIFIED AS APPROPRIATE FOR DISPOSITION BY THE COURT FOR VETERANS AND TRANSFERRED TO THE COURT FOR VETERANS AS PROVIDED IN SECTION ONE HUNDRED SEVENTY-EIGHT-B OF THIS ARTICLE.

S 178-B. TRANSFER OF CASES TO COURTS FOR VETERANS; HOW EFFECTUATED. 1. TRANSFER OF CASES PENDING IN LOCAL CRIMINAL COURTS. (A) A LOCAL CRIMINAL COURT IN A COUNTY IN WHICH A COURT FOR VETERANS HAS BEEN ESTABLISHED UNDER THIS ARTICLE OR A LOCAL CRIMINAL COURT IN ANOTHER COUNTY WITHIN THE JUDICIAL DISTRICT 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

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

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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.

(B) 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 PROMOTE THE ADMINISTRATION OF JUSTICE, 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 PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH LAW.

2. TRANSFER OF CASES PENDING IN SUPERIOR COURTS. (A) 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 OR A SUPERIOR COURT IN ANOTHER COUNTY WITHIN THE JUDICIAL DISTRICT, 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.

(B) NOT LATER THAN FIVE BUSINESS DAYS FOLLOWING THE 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 TRANSFER WOULD PROMOTE THE ADMINISTRATION OF JUSTICE:

(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 TO A COURT FOR VETERANS 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.