

3141

2015-2016 Regular Sessions

I N S E N A T E

February 2, 2015

Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

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:

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

5 SECTION 178-A. ESTABLISHMENT OF COURTS FOR VETERANS.

6 178-B. TRANSFER OF CASES TO COURTS FOR VETERANS; HOW EFFECTUAT-
7 ED.

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

10 S 178-A. ESTABLISHMENT OF COURTS FOR VETERANS. THE CHIEF ADMINISTRATOR
11 OF THE COURTS, BY ADMINISTRATIVE ORDER, IS AUTHORIZED AND DIRECTED TO
12 ESTABLISH A COURT FOR VETERANS IN ANY CRIMINAL COURT IN THE STATE, AND
13 ASSIGN ONE OR MORE JUSTICES OR JUDGES TO PRESIDE THEREIN. SUCH COURT FOR
14 VETERANS SHALL HAVE AS ITS PURPOSE THE HEARING AND DETERMINATION OF:

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

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

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

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

LBD02440-01-5

1 THE JUDICIAL DISTRICT MAY, UPON MOTION OF THE DEFENDANT AND WITH THE
2 CONSENT OF THE DISTRICT ATTORNEY, CAUSE COPIES OF PAPERS AND OTHER DOCU-
3 MENTS FILED IN SUCH LOCAL CRIMINAL COURT IN CONNECTION WITH A CRIMINAL
4 ACTION OR PROCEEDING PENDING THEREIN TO BE SENT TO THE COURT FOR VETER-
5 ANS:

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

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

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

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

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

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 TO A COURT FOR VETERANS SHALL
8 BE SUBJECT TO THE SAME SUBSTANTIVE AND PROCEDURAL LAW AS WOULD HAVE
9 APPLIED TO IT HAD IT NOT BEEN TRANSFERRED.

10 S 2. This act shall take effect on the first of January next succeed-
11 ing the date on which it shall have become a law.