

5677

2015-2016 Regular Sessions

I N   S E N A T E

May 27, 2015

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Introduced by Sen. GRIFFO -- (at request of the Attorney General) -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to removal of a criminal action to a veterans treatment court

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

1     Section 1. Legislative findings. The legislature finds and declares  
2     that New York, along with the rest of the country, owes an enduring debt  
3     to the brave men and women who have served in our nation's armed forces.  
4     Their service in defense of our country and its ideals must never be  
5     forgotten. We also must not fail to recognize that when veterans return  
6     from foreign conflicts their transition to civilian life is not always  
7     an easy one and can be marked by depression, other forms of mental  
8     illness and substance abuse. Studies have shown that the trauma a  
9     soldier suffers while deployed is a major contributing factor to low  
10    level, but often persistent, criminal activity.

11    New York stands in the vanguard for treating veterans whose criminal  
12    conduct is linked to their military service. In 2008, the nation's first  
13    veterans treatment court was started in the Buffalo city court. By  
14    recognizing the root causes of many veterans' contacts with the criminal  
15    justice system and applying proven resources, including counseling,  
16    treatment for drug or alcohol addiction, hands-on assistance with hous-  
17    ing needs and job training and placement, we have led the way in reduc-  
18    ing recidivism among returning veterans. Starting with that single court  
19    in Buffalo, the veterans treatment court has become the model for many  
20    other states. While New York now has twenty veterans treatment courts  
21    and at least two additional courts in the planning stage, not all of New  
22    York's veterans live in a jurisdiction that currently has such a court.  
23    We can do better.

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

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1 In order to broaden the availability of veterans treatment courts to  
2 qualified veterans, this act would authorize the transfer of a criminal  
3 case against a qualified veteran whose charges are pending in a local  
4 criminal court that is not a veterans treatment court to another local  
5 criminal court within the same county that is a veterans treatment  
6 court. Following the successful "drug hub court" model, the case could  
7 only be transferred on the application of the defendant, and with the  
8 consent of the court and district attorney. Recognizing that resource  
9 constraints and the need for extensive planning and coordination among  
10 the judiciary and local, state and federal agencies have limited the  
11 availability of veterans treatment courts in certain jurisdictions in  
12 the state, this measure also would permit a qualified veteran to apply  
13 to have his or her criminal case transferred to a veterans treatment  
14 court located in an adjoining county. This will ensure the broadest  
15 possible reach of every existing veterans treatment court, and send a  
16 signal that New York and its courts are committed to acknowledging and  
17 serving the special needs of the greatest number of qualified veterans.  
18 In practical terms, the act would immediately more than double the  
19 number of counties where veterans charged with criminal offenses would  
20 have access to the proven benefits of a veterans treatment court.

21 S 2. Subdivision 4 of section 170.15 of the criminal procedure law, as  
22 amended by chapter 67 of the laws of 2000, is amended to read as  
23 follows:

24 4. Notwithstanding any provision of this section to the contrary, in  
25 any county outside a city having a population of one million or more,  
26 upon or after arraignment of a defendant on an information, a simplified  
27 information, a prosecutor's information or a misdemeanor complaint pend-  
28 ing in a local criminal court, such court may, upon motion of the  
29 defendant and with the consent of the district attorney, order that the  
30 action be removed from the court in which the matter is pending to  
31 another local criminal court in the same county which has been desig-  
32 nated a drug court by the chief administrator of the courts, OR TO  
33 ANOTHER LOCAL CRIMINAL COURT IN THE SAME COUNTY OR AN ADJOINING COUNTY  
34 THAT HAS BEEN DESIGNATED A VETERANS TREATMENT COURT BY THE CHIEF ADMIN-  
35 ISTRATOR OF THE COURTS, and such drug court OR VETERANS TREATMENT COURT  
36 may then conduct such action to [judgement] JUDGMENT or other final  
37 disposition; provided, however, that an order of removal issued under  
38 this subdivision shall not take effect until five days after the date  
39 the order is issued unless, prior to such effective date, the drug court  
40 OR VETERANS TREATMENT COURT notifies the court that issued the order  
41 that:

42 (a) it will not accept the action, in which event the order shall not  
43 take effect, or

44 (b) it will accept the action on a date prior to such effective date,  
45 in which event the order shall take effect upon such prior date.

46 Upon providing notification pursuant to paragraph (a) or (b) of this  
47 subdivision, the drug court OR VETERANS TREATMENT COURT shall promptly  
48 give notice to the defendant, his or her counsel and the district attor-  
49 ney.

50 S 3. Subdivision 3 of section 180.20 of the criminal procedure law, as  
51 amended by chapter 67 of the laws of 2000, is amended to read as  
52 follows:

53 3. Notwithstanding any provision of this section to the contrary, in  
54 any county outside a city having a population of one million or more,  
55 upon or after arraignment of a defendant on a felony complaint pending  
56 in a local criminal court having preliminary jurisdiction thereof, such

1 court may, upon motion of the defendant and with the consent of the  
2 district attorney, order that the action be removed from the court in  
3 which the matter is pending to another local criminal court in the same  
4 county which has been designated a drug court by the chief administrator  
5 of the courts, OR TO ANOTHER COURT IN THE SAME COUNTY OR AN ADJOINING  
6 COUNTY THAT HAS BEEN DESIGNATED A VETERANS TREATMENT COURT BY THE CHIEF  
7 ADMINISTRATOR OF THE COURTS, and such drug court OR VETERANS TREATMENT  
8 COURT may then dispose of such felony complaint pursuant to this arti-  
9 cle; provided, however, that an order of removal issued under this  
10 subdivision shall not take effect until five days after the date the  
11 order is issued unless, prior to such effective date, the drug court OR  
12 VETERANS TREATMENT COURT notifies the court that issued the order that:

13 (a) it will not accept the action, in which event the order shall not  
14 take effect, or

15 (b) it will accept the action on a date prior to such effective date,  
16 in which event the order shall take effect upon such prior date.

17 Upon providing notification pursuant to paragraph (a) or (b) of this  
18 subdivision, the drug court OR VETERANS TREATMENT COURT shall promptly  
19 give notice to the defendant, his or her counsel and the district attor-  
20 ney.

21 S 4. To the extent practicable, the chief administrator of the courts  
22 shall establish such number of veterans treatment courts as may be  
23 necessary to fulfill the purposes of this act.

24 S 5. This act shall take effect immediately.