STATE OF NEW YORK

4418

2019-2020 Regular Sessions

IN SENATE

March 11, 2019

Introduced by Sen. HELMING -- 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 the 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:

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

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

In order to broaden the availability of veterans treatment courts to qualified veterans, this act would authorize the transfer of a criminal

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

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

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

4. Notwithstanding any provision of this section to the contrary, in any county outside a city having a population of one million or more, upon or after arraignment of a defendant on an information, a simplified information, a prosecutor's information or a misdemeanor complaint pending in a local criminal court, such court may, upon motion of the defendant and with the consent of the district attorney, order that the action be removed from the court in which the matter is pending to another local criminal court in the same county which has been designated a drug court by the chief administrator of the courts, **or to another local criminal court in the same county or an adjoining county that has been designated a veterans treatment court by the chief administrator of the courts,** and such drug court **or veterans treatment court** may then conduct such action to [~~judgement~~] **judgment** or other final disposition; provided, however, that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the drug court **or veterans treatment court** notifies the court that issued the order that:

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

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

Upon providing notification pursuant to paragraph (a) or (b) of this subdivision, the drug court **or veterans treatment court** shall promptly give notice to the defendant, his or her counsel and the district attorney.

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

3. Notwithstanding any provision of this section to the contrary, in any county outside a city having a population of one million or more, upon or after arraignment of a defendant on a felony complaint pending in a local criminal court having preliminary jurisdiction thereof, such court may, upon motion of the defendant and with the consent of the district attorney, order that the action be removed from the court in

which the matter is pending to another local criminal court in the same county which has been designated a drug court by the chief administrator of the courts, **or to another court in the same county or an adjoining county that has been designated a veterans treatment court by the chief administrator of the courts,** and such drug court **or veterans treatment court** may then dispose of such felony complaint pursuant to this article; provided, however, that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the drug court **or veterans treatment court** notifies the court that issued the order that:

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

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

Upon providing notification pursuant to paragraph (a) or (b) of this subdivision, the drug court **or veterans treatment court** shall promptly give notice to the defendant, his or her counsel and the district attorney.

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

§ 5. This act shall take effect immediately.