

**SB 114: IMPROVING PRE-TRIAL
DIVERSION TO MEET THE UNIQUE NEEDS
OF CONNECTICUT'S VETERANS**



CONNECTICUT VETERANS
LEGAL CENTER

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INTRODUCTION

After serving with courage and diligence, many veterans across the nation return home to face economic, family, and emotional struggles.

Connecticut is home to 240,000 veterans. Thousands more will return to the state and begin the difficult transition to civilian life as foreign wars draw to a close.

Upon returning, many of these veterans are recovering from invisible wounds that too often go untreated, including post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI). Some Connecticut veterans struggle with substance abuse, homelessness, and incarceration.

When veterans struggle to adjust, they can become involved with the criminal justice system. Instead of receiving treatment, they often face criminal convictions, which delay proper treatment and greatly limit their employment opportunities.

The Connecticut Veterans Legal Center (CVLC) helps veterans serve their communities as productively as they served their country. CVLC provides legal assistance to veterans struggling to overcome homelessness, addiction, and unemployment. Serving hundreds of veterans across the state, CVLC has seen firsthand the struggles veterans endure and the success they can achieve.

Thankfully, Connecticut is well-positioned to meet the unique needs of veterans and promote healthier communities across the state. Modest reforms of current eligibility requirements and treatment options in pre-trial diversionary programs, like those proposed in SB 114, would make a significant impact on veteran health and wellbeing while allowing them to access federal veterans assistance programs and saving the state from unnecessary expenditures. CVLC supports these reforms because they will enable Connecticut's veterans to receive the treatment they need and begin the lives they deserve.

SUMMARY

CVLC encourages the Connecticut General Assembly to adopt SB 114, which expands access for veterans to existing diversionary programs.

SB 114 provides judges expanded opportunities to direct justice-involved veterans toward individualized treatment plans, focused on recovery and readjustment, as an alternative to incarceration. Further, it would allow integration of mental health and drug treatment for veterans and channel them to institutions best suited to treat them.

By guiding veterans to existing programs and providers, including the federal Department of Veterans Affairs, Connecticut can reduce costs to taxpayers and achieve long-term savings by reducing recidivism.

VETERANS AND THE CRIMINAL JUSTICE SYSTEM

As of 2010, Connecticut had 5,828 active duty servicemembers,¹ and 6,678 selected reserve members.² In 2008, the United States Department of Veterans Affairs (VA) estimated the Connecticut's veterans' population was 245,643.³ Reports from the Department of Justice in 2002 and 2004 show that nationwide, 10% of prisoners report prior service in the armed forces.⁴ 70% of those veterans are incarcerated for non-violent offenses, and 82% of incarcerated veterans are eligible for VA services.⁵ Although veterans make up only approximately 10% of the U.S. adult population, they constitute roughly one-third of the homeless population.⁶ Unfortunately, these numbers are likely to rise as troops return from Afghanistan and Iraq, and the military implements major troop reductions.

Connecticut has worked hard to support its veteran and military populations; however, many veterans still fall through the cracks and end up in the criminal justice system. Mental health and substance abuse are widely recognized as the leading indicators of incarceration and homelessness in the population at large, and the correlation is no different among veterans. In addition to these, many veterans face a difficult readjustment to civilian life after returning home, and this difficult transition can further add to an individual's risk factors. Therefore, treatment of these issues is an important step in reducing the number of veterans Connecticut incarcerates.

Nearly 30% of Iraq and Afghanistan veterans nationwide suffer from Post-Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), or major depression.⁷ Many more suffer from PTSD-like symptoms, anxiety, and adjustment disorder. In a survey of Connecticut Operation Enduring Freedom (OEF)/Operation Iraqi Freedom (OIF) veterans, nearly half exhibited PTSD or its symptoms: 21.5% met criteria for having PTSD and 22.3% met the criteria for partial-PTSD.⁸ Tragically, as many as half of veterans suffering from mental health disorders go untreated due to the stigma associated with obtaining mental health treatment and the particularized stigma within the military.⁹ Instead, these veterans may turn to alcohol or drugs to cope with their symptoms and many continue to suffer the effects in silence. One study found that 73% of Vietnam veterans suffering from PTSD had a lifetime history of substance abuse.¹⁰

Even servicemembers who do not have mental health disorders may experience significant difficulty readjusting to civilian life. This readjustment problem can be exacerbated for members of the National Guard and Reserves, who face more drastic transitions, both into active duty and back into civilian life. Unlike active duty military personnel, these servicemembers are removed from their units and have little time to readjust to their home and families before being required to return to work in as little as eighteen days. Consequently, surveys of Connecticut veterans show higher needs for mental health referrals and higher rates of alcohol abuse among National Guard veterans.¹¹ This is an important consideration among the Connecticut veteran population

because 38% of Connecticut residents deployed to Iraq or Afghanistan have been National Guard or Reserve.¹²

Connecticut and the U.S. government have not ignored these problems and together maintain several treatment facilities dedicated to treating veterans. The United States Department of Veterans Affairs (VA) provides services through the VA Medical Centers in West Haven (including its Errera Community Care Center, which focuses on providing treatment and services to veterans struggling with mental illness, substance abuse, homelessness, or aging) and Newington and through Vet Centers, focused on therapy and readjustment, in Danbury, Hartford, Norwich, and New Haven.¹³ The Connecticut Department of Veterans' Affairs runs the Connecticut Veterans Home in Rocky Hill, which provides veterans with residential substance recovery treatment for up to two years.¹⁴ More recently, Connecticut received a federal grant from the SAMHSA Center for Mental Health Services. This grant is administered by the Connecticut Department of Mental Health and Addiction Services and has been used to launch a successful veterans' jail diversion pilot program in New London County.¹⁵ These programs collectively focus on providing veterans with a range of services from mental health and substance abuse treatment to employment training. Most importantly, they do so with professionals specifically trained to work with veterans and programs specifically tailored to veterans' needs. The over-representation of veterans in the state's criminal justice system does not result from a lack of treatment options. Rather, it stems from barriers blocking veteran access to the appropriate treatment programs.

A number of initiatives have developed in Connecticut to serve veterans involved in the justice system. VA has located Veterans Justice Officers in West Haven and Waterbury: these officers work within the courthouses and are responsible for identifying veterans charged with crimes and attempting to place them in VA treatment programs as an alternative to incarceration. The Connecticut Department of Veterans Affairs has sponsored Stand Down, an annual event at which it provides legal help to justice-involved veterans including the expedited resolution of some minor criminal cases. The SAMHSA grant funds early identification in New London by the Department of Mental Health and Addiction Services. However, none of these programs operates on a statewide level and expanding them to that scale would be quite costly.

MECHANICS OF SB 114: A PRACTICAL SOLUTION

The raised legislation expands access to two of Connecticut's existing, successful pretrial diversionary programs, Accelerated Rehabilitation (AR) and Supervised Diversion (SDP), to better accommodate the unique needs of veterans. The State of Connecticut Judicial Branch describes Accelerated Rehabilitation as a program "available to certain persons charged with crimes and motor vehicle violations that are not of a serious nature..."¹⁶ Supervised Diversion, created in 2008, "combine[s] mental health treatment with probation supervision."¹⁷

CVLC's proposed legislation allows veterans to utilize Accelerated Rehabilitation twice, and allows veterans to access Supervised Diversion without receiving a formal

psychiatric diagnosis. The legislation also encourages Court Support Services to connect veterans enrolled in these programs with existing treatment options sensitive to veterans' unique needs at the U.S. Department of Veterans Affairs, Connecticut Department of Veterans' Affairs, and the Connecticut Department of Mental Health and Addiction Services.

At present, state law allows criminal defendants to access Accelerated Rehabilitation only once, and one must receive a stigmatizing mental illness diagnosis to participate in Supervised Diversion. Under SB 114, both programs will remain open only to those whose alleged offense is not of a serious nature.

It is critical to note that the bill does not limit judicial discretion concerning the use of diversionary programs in any given case, nor does it change which offenses are covered by the existing diversionary programs or the effects of diversionary programs on non-veterans. Rather, SB 114 has a targeted impact. Once a judge has determined that a veteran is eligible, that veteran will have access to individualized treatment plans that address the multifaceted problems he or she faces. With the passage of SB 114, veterans who are eligible for diversion will be able to choose among respected treatment providers, which choice ensures more successful treatment with enduring results.

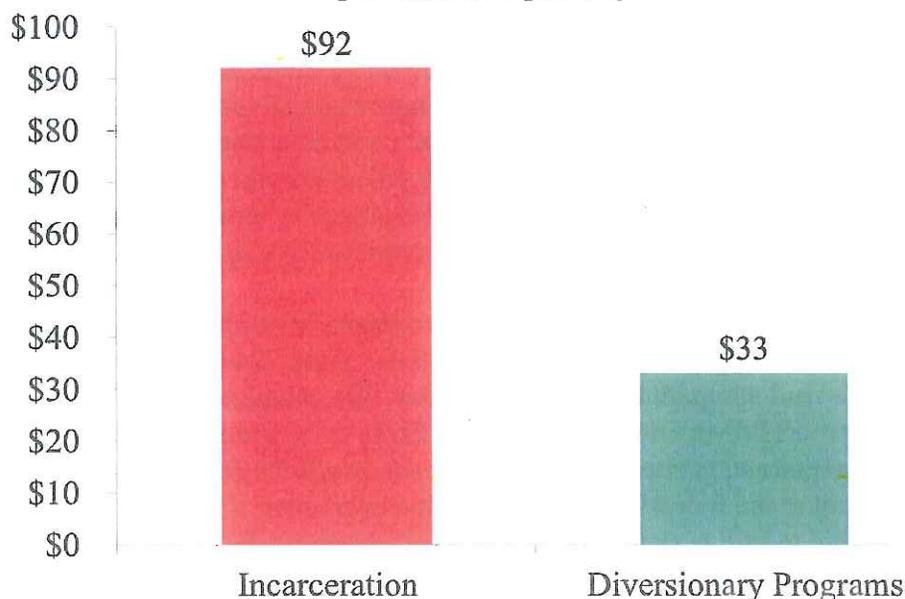
FISCAL IMPACT OF SB 114: SHORT AND LONG-TERM SAVINGS

Augmenting existing diversionary programs to better meet the needs of veterans saves the state of Connecticut money in four ways.

HOW SB 114 SAVES MONEY

1. Supervising offenders in the community is far less costly than incarcerating them.
2. Many veterans will receive diversionary treatment through federal VA programs instead of state-funded programs.
3. Those who participate in pretrial diversionary program are less likely to re-offend than those who are directly sentenced.
4. Offenders who are afforded the opportunity to address the underlying cause of their conduct and avoid a criminal conviction are more likely to maintain employment and be productive members of society.

DIVERSION vs. INCARCERATION COSTS per offender per day



Connecticut spends an average of \$92.35 per day to incarcerate someone.¹⁸ Conversely, it costs Connecticut \$32.66 a day to supervise an offender in the community.¹⁹ As of January 1, 2012, 8,887 people, or 18.2% of all probationers, were being supervised under Accelerated Rehabilitation or Supervised Diversion in Connecticut.²⁰ By treating these individuals instead of incarcerating them, the state of Connecticut saves an estimated \$59.69 per day per individual. Furthermore, the recidivism rates for those who participate in pretrial diversionary programs are lower than for those who are directly sentenced.²¹ A lower recidivism rate is good for individual ex-offenders, good for the community, and saves Connecticut even more money.

Statistics are not available concerning the percentage of people admitted into Accelerated Rehabilitation and Supervised Diversion who are veterans. However, national statistics can provide a guide to expected rates of incarceration, probation, and program participation for veterans.

Nationally, ten percent of state prisoners reported prior service in the U.S. armed forces²² and about 10.4% of probationers are veterans.²³ Connecticut has an incarceration rate of 376 per 100,000.²⁴ If veterans in Connecticut are incarcerated at the national rate, 1,344 veterans are incarcerated for some period of time each year in the state. There are currently 48,718 people in Connecticut on some form of probation supervision.²⁵ If national statistics for veterans on probation hold for Connecticut, approximately 5,067 veterans are currently on some form of probation in Connecticut. It can therefore be estimated that about 6,411 veterans are either currently on some form of probation or in prison in Connecticut. Not all of these veterans would be eligible for expanded Accelerated Rehabilitation or Supervised Diversion under the proposed legislation. In some cases, the nature of the veteran's criminal charges would make him or her

ineligible. In other cases, veterans will have already exhausted their use of these programs.

To make a maximum estimate of the number of new veterans that might enroll after passage of SB 114, one must assume that no veterans are currently able to take advantage of Accelerated Rehabilitation or Supervised Diversion. In this conservative scenario, any veteran who participates in these programs would be a new participant. With a baseline estimate of 5,067 veterans on probation and a statewide AR and SDP participation rate of 18.2%,²⁶ a maximum estimated 924 new veterans could enroll in AR and SDP annually. This represents a 10% increase in enrollment in those programs.²⁷

If all 924 of those veterans were incarcerated, it would cost the state of Connecticut \$85,331 per day. Meanwhile, if those same 924 veterans were diverted, the state would spend a maximum of \$29,035 a day. We calculate that the cost of supervising veterans in pretrial diversionary programs is likely to be lower than the cost of supervising non-veterans because many veterans would be able to receive the majority of their treatment at the federally funded VA. However, even if all veterans enrolled in these programs were to utilize state funded treatment programs the state still saves \$53,340 per day.²⁸

ANNUAL COST TO CONNECTICUT

Veteran in Jail

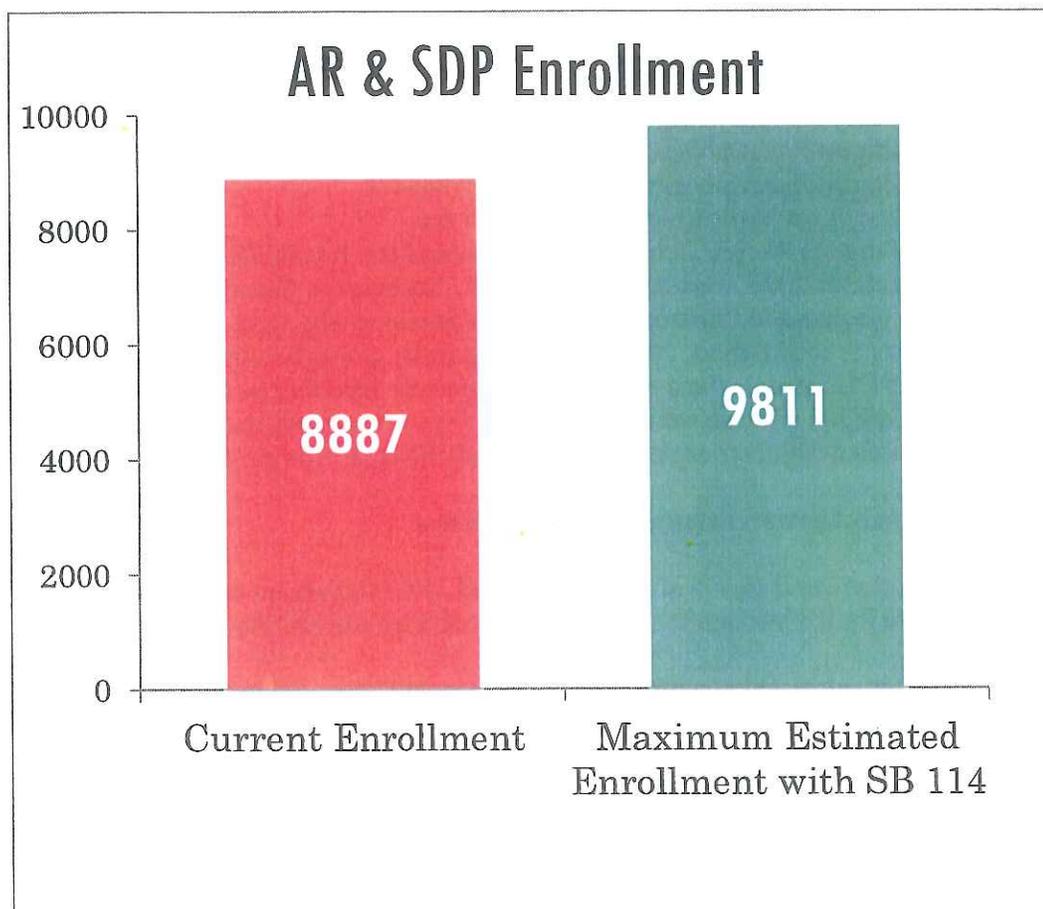
Veteran in Treatment



Ultimately, the proposed changes to Accelerated Rehabilitation and Supervised Diversion in SB 114 are likely to benefit an estimated 1000 Connecticut veterans each year in a very significant way. This legislation will result in a small increase in enrollment in these programs and better leveraging of federal resources. No new staff should be required to implement the proposed expansion of Accelerated Rehabilitation and Supervised Diversion.

CONCLUSION

While there are many challenges that face Connecticut's veterans, the state is in a good position to honor its veterans and ensure that they are given every opportunity to reintegrate successfully into civilian society. SB 114 provides a cost-saving and practical tool to the criminal justice system to better address the unique needs of justice-involved veterans.



¹ Dept. of Defense, *Demographics 2010: Profile of the Military Community*, 27, available at http://www.militaryhomefront.dod.mil//12038/Project%20Documents/MilitaryHOMEFRONT/Reports/2010_Demographics_Report.pdf (last visited Jan. 26, 2012).

² *Id.* at 90.

³ Commissioner of Veterans' Affairs Linda Schwartz, Testimony before Judiciary Committee, at 5, February 25, 2010.

⁴ Margaret E. Noonan and Christopher Mumola, Veterans in State and Federal Prison, Bureau of Justice Statistics Special Report, 2004 <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=808>

⁵ American Bar Association, Resolution 105A Report, Adopted February 8-9, 2010, at 2 [hereinafter "ABA Report"].

⁶ ABA Report, at 2.

⁷ *Id.* at 2.

⁸ Thomas Kirk, Connecticut Department of Mental Health and Addiction Services, "Findings on the Aftereffects of Service in Operations Enduring Freedom and Iraqi Freedom, Oct. 2008, at 14 [hereinafter "DMHAS Report on OEF/OIF"].

⁹ ABA Report, at 3 (citing RAND).

¹⁰ DMHAS Report on OEF/OIF, at 15.

¹¹ *Id.* at 23.

¹² *Id.* at 11.

¹³ Errera Community Care Center, <http://www.erreraccc.com>, last visited February 17, 2012.

¹⁴ Commissioner Linda Schwartz, Testimony before Judiciary Committee, at 3.

¹⁵ *Id.* at 2.

¹⁶ Superior Court Criminal Division, A Guide to Special Sessions & Diversionary Programs in Connecticut, 2006, www.jud.ct.gov

¹⁷ www.ct.gov/opm/lib/opm/.../supervised_diversion_for_cjpac_pp.pp

¹⁸ <http://www.ct.gov/doc/cwp/view.asp?a=1505&q=265600>

¹⁹ <http://www.ct.gov/doc/cwp/view.asp?a=1492&q=265472>

²⁰ <http://www.jud.ct.gov/statistics/probation/default.htm>

²¹ Legislative Program Review & Investigations Committee, Pretrial Diversion and Alternative Sanctions, December 2004, www.cga.ct.gov/2004/.../Alternative_Sanctions_Final_Report.pdf.

²² Margaret E. Noonan and Christopher Mumola, Veterans in State and Federal Prison, Bureau of Justice Statistics Special Report, 2004 <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=808>.

²³ In 2004, 4,151,125 people were on probation nationally according to the Bureau of Justice Statistics and 399,300 of those were veterans. <http://www.nadcp.org/node/442>.

²⁴ <http://www.statehealthfacts.org/profileind.jsp?ind=760&cat=1&rgn=8&cmprgn=19#notes-ind-760>

²⁵ <http://www.jud.ct.gov/statistics/probation/default.htm>

²⁶ *Ibid.*

²⁷ Considering that about 10.4% of probationers and 10% of prisoners are veterans, 10% is a logical estimate for the increase in utilization of Accelerated Rehabilitation and Supervised Diversion.

²⁸ This savings is calculated assuming that the state would otherwise incarcerate those who are enrolled in a diversionary program.