
OLR Bill Analysis

sSB 114

AN ACT CONCERNING SERVICES FOR VETERANS IN PRETRIAL DIVERSIONARY PROGRAMS.

SUMMARY:

This bill allows veterans and related people to use the accelerated rehabilitation (AR) program twice rather than just once.

The bill broadens eligibility for two other diversionary programs, the diversionary program for people with psychiatric disabilities and the pretrial drug education program, by adding certain veterans and related people. It also provides veterans and related people with access to state and federal departments of veterans' affairs (DVA) services as an alternative to services from the Department of Mental Health and Addiction Services (DMHAS).

It modifies the eligibility criteria for eligible veterans and related people for the diversionary program for people with psychiatric disabilities.

Under the bill, "veteran" means:

1. an individual honorably discharged or released under honorable conditions from active service in the U.S. armed forces, under state law or
2. a person who is eligible to receive certain U.S. DVA services, under federal law (i.e., a person who served in the active military, naval, or air service, and was discharged or released under conditions other than dishonorable, and his or her surviving spouse, child, or parents).

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2012

PRISON DIVERSION PROGRAMS

Generally, a diversion program in Connecticut's criminal justice system refers to a process that allows criminal defendants to avoid prosecution and incarceration by successfully completing court-sanctioned community-based treatment programs.

Accelerated Rehabilitation

The bill allows a veteran or a related person to have a second round of participation in the AR program. AR is the general diversion program for people accused of crimes "not of a serious nature" (see BACKGROUND).

Under current law, a person is ineligible for AR if he or she:

1. used the program before;
2. was previously convicted of a crime or certain motor vehicle violations;
3. has been charged with certain drug offenses and is eligible for the pretrial drug education program or has had that program invoked in his or her favor before;
4. has been charged with a family violence crime and is eligible for the pretrial family education program or has had that program invoked in his or her favor before; or
5. has been charged with certain serious offenses.

By law, the court has discretion whether to allow a defendant to use the program and the court must believe that the defendant will probably not offend in the future.

Diversions Program for People with Psychiatric Disabilities and Veterans

Under existing law, to qualify for the diversionary program for people with psychiatric disabilities, a person must not (1) have used

this supervised diversionary program twice before and (2) be ineligible under the AR program. The law defines “psychiatric disability” as a mental or emotional condition, other than solely substance abuse, that has substantial adverse effects on the defendant’s ability to function and requires treatment.

By law, a person with psychiatric disabilities who is accused of certain crimes (see BACKGROUND) may apply to a court for participation in the program. The court may refer the person to the Judicial Branch’s Court Support Services Division (CSSD) to confirm eligibility and assess the person’s mental health condition for participation in the program. Under current law, if it determines the person is amenable to treatment and appropriate services and treatment are available, CSSD tailors a treatment plan for the person and presents it to the court. The court may then refer the person to CSSD for placement, in collaboration with DMHAS, in a program that provides appropriate community supervision, treatment, and services.

The bill makes veterans and related people, as defined above, who commit the same crimes eligible as well, but only requires that they be found to have a mental health condition amenable to treatment rather than meeting the definition of having a “psychiatric disability.”

It changes the collaboration process by (1) allowing rather than requiring CSSD to collaborate with DMHAS to place the person in a program that provides appropriate community supervision, treatment, and services and (2) including the state or U.S. DVA, as applicable.

The bill also requires CSSD to determine, for any applicant, that appropriate community supervision is available when considering whether a person is eligible and services are available, and if so, to make it a part of the tailored treatment plan.

Pretrial Drug Education

By law, the pretrial drug education program is for people charged with possession of drugs or drug paraphernalia. A person is ineligible if he or she previously participated in this program or the community

service labor program.

Under existing law, a court may, after considering a recommendation from a state's attorney in charge of the case, allow a person to participate in the program and must refer him or her to (1) CSSD for confirmation of eligibility and (2) DMHAS for evaluation. Under the bill, the court may also refer a veteran or related person to the state or U.S. DVA for evaluation.

Under current law, once eligibility is confirmed, CSSD places the person in the drug education program, referring him or her to DMHAS for drug education services at a state-licensed substance abuse treatment facility that complies with state standards. The bill allows CSSD to refer a veteran or related person to the state or U.S. DVA facility and makes conforming changes.

The bill stipulates, however, that CSSD may only refer a veteran to the state or U.S. DVA if it determines that the:

1. services will be provided in a timely manner under standards substantially similar to, or higher than, standards for services DMHAS provides under the program and
2. department (state or U.S. DVA) agrees to submit timely program participation and completion reports to CSSD in the manner it requires.

BACKGROUND

Eligibility for Certain Diversionary Programs

By law, the diversion program for people with psychiatric disabilities and the AR program are for people charged with crimes "not of a serious nature."

The law does not define this term, but instead defines what crimes make a person ineligible. For example, a person is ineligible for the diversionary program for people with psychiatric disabilities if he or she:

1. was previously convicted of a crime or certain motor vehicle violations that resulted in a person's death;
2. has been charged with certain drug offenses and is eligible for the pretrial drug education program or has had it invoked twice before;
3. has been charged with a family violence crime and is eligible for the pretrial family education program or has had that program invoked in his or her favor before; or
4. has been charged with certain serious offenses (e.g., a class A felony and most class B felonies) (CGS § 54-56e).

Generally, crimes for which one is eligible for these two diversionary programs include class D felonies; misdemeanors; and, if good cause can be shown, certain class C felonies. Thus, eligible crimes could include reckless driving, street racing, running from the police, unlawful restraint, misconduct with a motor vehicle, use of a motor vehicle without permission, and illegal possession of an assault weapon.

Armed Forces

The law defines "armed forces" to mean the U.S. Army, Navy, Marine Corps, Coast Guard, Air Force, their reserve components, and the state's National Guard under federal service (CGS § 27-103).

COMMITTEE ACTION

Select Committee on Veterans' Affairs

Joint Favorable Substitute Change of Reference
Yea 9 Nay 0 (03/08/2012)

Judiciary Committee

Joint Favorable Substitute
Yea 45 Nay 0 (03/28/2012)