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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

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**Bill No:** AB 1672                      **Hearing Date:** June 21, 2016  
**Author:** Mathis  
**Version:** June 14, 2016  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** ML

**Subject:** *Veterans Treatment Courts: Judicial Council Assessment and Survey*

### HISTORY

Source: Author

Prior Legislation: AB 2098 (Levine) – Ch. 163, Stats. 2014  
AB 201 (Butler), 2011-2012 Legislative Session, Vetoed by Governor  
AB 1925 (Salas), 2009-2010 Legislative Session, Vetoed by Governor

Support: American G.I Forum of California; American Legion-Department of California; AMVETS-Department of California; California Association of County Veterans Service Officers; California Public Defenders Association; California State Commanders Veterans Council; Military Officers Association of America-California Council of Chapters; Crime Victims United of California; Disabled Veteran Business Alliance; Judicial Council of California; National Association of Social Workers – California Chapter; VFW-Department of California; Rural County Representatives of California; The Vietnam Veterans of America-California State Council

Opposition: None Known

Assembly Floor Vote: 77 - 0

### PURPOSE

*The purpose of this bill is to require the Judicial Council to study the impact of veterans' courts, or the lack thereof, on veterans involved in the criminal justice system, the availability of technology to increase access to veterans' courts, and the utility of community courts as a substitute.*

*Existing law* vests in the superior courts the judicial power of California. (Cal. Const. art. VI, § 1.)

*Existing law* establishes the Judicial Council and authorizes them to make rules and recommendations regarding the operation of the courts. (Cal. Const. art. VI, § 6(d).)

*Existing law* allows courts to make rules for the administration of the courts so long as they are not otherwise prohibited by the Constitution, statute or rules adopted by the Judicial Council. (Gov. Code, § 68070; *Wisniewski v. Clary* (1975) 46 Cal.App.3d 499.)

*Existing law* requires judges to identify veteran defendants suffering from sexual trauma, post-traumatic stress disorder, traumatic brain injury, substance abuse, or mental health problems as a result of his or her service and use this status as a factor in favor of granting probation and/or ordering participation in approved treatment programs. (Penal Code, § 1170.9.)

*This bill* requires the Judicial Council to study the impact of veterans' courts, or the lack thereof, on veterans involved in the criminal justice system. The study will begin January 1, 2017 and end January 1, 2018.

*This bill* requires the Judicial Council to study the availability of technology to deliver veterans' courts services to counties without such courts. The study will begin January 1, 2017 and end January 1, 2018.

*This bill* requires the Judicial Council to study the utility of community courts as a substitute for veterans' courts in those counties that do not have veterans' courts. The study will begin January 1, 2017 and end January 1, 2018.

*This bill* requires the Judicial Council to report to the Legislature the results of their studies on the impact of veterans' courts and the feasibility of technology to deliver veterans' courts services that have no such courts by June 1, 2019.

*This bill* states that 50% of the cost of this study shall be paid by private funds and 50% shall be paid by public funds.

*This bill* sunsets these provisions on January 1, 2020.

#### RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as of December 9, 2015, 112,510 inmates were housed in the State's 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is

1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015.” (Defendants’ December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).) One year ago, 115,826 inmates were housed in the State’s 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants’ December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

## COMMENTS

### 1. Stated Need for This Bill

The author states:

A veterans’ court, also known as a veterans’ treatment court, is a problem-solving court intended to serve veterans who are involved with the justice system and whose court cases are affected by issues such as addiction, mental illness, and/or co-occurring disorders. These courts promote sobriety, recovery, and stability through a coordinated response involving cooperation and collaboration with prosecutors, defense lawyers, probation departments, county veterans service offices, the California Department of Veterans Affairs (CDVA), health-care networks, employment and housing agencies and groups, volunteer mentors who are usually also veterans, and family support organizations.

Several counties throughout the state do not currently have a veterans’ court within their limits. As such, these veterans often find themselves neglected and underrepresented once they become involved in the judicial system. This problem is exacerbated because neighboring counties are not currently authorized to provide the services needed by these veterans. Without proper representation and information, these veterans are left to manage and navigate the challenges of the justice system without vital assistance.

This bill will commission a one-year study on the impact that a lack of access to a veterans' court has upon veterans. In addition, the study will assess the utility of a community court serving in place of a veterans' court. Finally, the study will evaluate the feasibility of using technology to allow counties without veterans' courts to utilize counties with them.

## 2. Background

Under California law, every court has the authority to make rules for its own government. This is an inherent power of the courts, but this power has also been codified in the Government Code. This power is limited only by any conflict with the California Constitution, statute or rules adopted by the Judicial Council of California.

Nothing in California's Constitution or statutes prohibits or requires the development of veterans' courts. However, under the Penal Code, courts are required to identify veteran defendants suffering from post-traumatic stress disorder, traumatic brain injury, and other issues for purposes of sentencing. For this and other reasons, the Judicial Council has encouraged the development of veterans' courts.

The Judicial Council has authority under the California Constitution to make rules governing California courts and to make recommendations to the Legislature and Governor regarding the operation of the courts. Under this authority, the Judicial Council created the Collaborative Justice Court Advisory Committee to make recommendations to the Judicial Council on criteria for identifying and evaluating collaborative justice courts and for improving the processing of cases in these courts, which include drug courts, domestic violence courts, youth courts, community courts, veterans' courts and other collaborative justice courts. Currently, at least 12 counties in California have established veterans' courts and two have established community courts.

Collaborative justice courts primary purpose is to connect criminal defendants with mental health, drug treatment and other rehabilitative services to reduce recidivism. In general, community courts have similar aims –in terms of connecting defendants with rehabilitative services- with the additional aims of promoting principles of community involvement, balanced and restorative justice, and accountability. Community courts can channel required community service hours to help meet community needs. In practice, community courts may differ little or not at all from other collaborative justice courts. For example, in Orange County the Community Court is the umbrella court for all of Orange County's collaborative justice courts, including their veterans' court.

Veterans' courts are hybrid drug and mental health courts that use the drug court model to serve veterans struggling with addiction, serious mental illness and/or co-occurring disorders. They promote sobriety, recovery and stability through a coordinated response that involves cooperation and collaboration with the traditional partners found in drug and mental health courts in addition to the U.S. Department of Veterans Affairs health care networks, the Veterans' Benefits Administration, and, in some programs, volunteer veteran mentors and veterans' family support organizations.

Veterans' Treatment Courts are responses to the growing trend of veterans appearing before the courts to face charges stemming from substance abuse or mental illness. Drug and mental health courts frequently serve veteran populations. Research has shown that traditional services do not

always adequately meet the needs of veterans. Many veterans are entitled to treatment through the Veterans' Administration and veterans treatment courts help connect them with these benefits.

According to government reports, there are 23,440,000 veterans in the United States and approximately 1.7 million veterans of Iraq and Afghanistan. The U.S. Department of Veterans Affairs estimates that as many as one third of the adult homeless population have served in the military and that at any given time there are as many as 130,000 homeless veterans. This population mirrors the general homeless population in that 45% suffer mental illness and 75% suffer from substance abuse problems. Veterans are not more likely to be arrested than the general population. But there are significant numbers of veterans involved with the criminal justice system, many of whom struggle with mental health and/or substance abuse illnesses. A 2000 Bureau of Justice Statistics Report found that 81% of all justice involved veterans had a substance abuse problem prior to incarceration, 35% were identified as suffering from alcohol dependency, 23% were homeless at some point in the prior year, and 25% were identified as mentally ill.

While there have been studies on the benefits of many collaborative justice courts, as well as studies on best practices for those courts, there has not been an extensive study on the impact of veterans' courts. However, the studies conducted on other collaborative justice courts have been encouraging. For example, drug courts have seen recidivism reductions of 85% and annual savings of \$90 million among participating counties. This bill would determine if similar positive impacts can be extended to veterans involved in the criminal justice system.

### **3. Argument in Support**

Crime Victims United of California states, in part:

Crime Victims United has long standing tradition of rehabilitative efforts that are sound and will strengthen public safety. This bill specifically targets a study on a group of individuals that deserve specialized rehabilitative measures. The men and women who bravely served our nation face specific challenges when they return to civilian life and these challenges need to be addressed with preventative and rehabilitative measures in our complex court system. While existing law requires veterans courts in California it is crucial to see that the challenges of these men and women are being met and served. This study will provide valuable insight into learning the effectiveness of the existing programs as well as provide information on how we can better serve our veterans.

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