

Senate Bill 320

By: Senators Harbison of the 15th, Hill of the 6th, Dugan of the 30th, Hill of the 4th, Mullis of the 53rd and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to
2 general court provisions, so as to create veterans court divisions; to provide for legislative
3 findings; to provide for definitions; to provide for assignment of cases; to provide for
4 planning groups and work plans; to provide for performance measures and best practices; to
5 provide for certification; to provide for funding; to provide for oversight by the Judicial
6 Council of Georgia; to provide for staffing and expenses; to provide for completion of
7 veterans court division programs; to provide for records, fees, grants, and donations; to
8 amend Code Section 35-3-37 of the Official Code of Georgia Annotated, relating to review
9 of an individual's criminal history record information, definitions, privacy considerations,
10 written application requesting review, and inspection, so as to restrict access to records of
11 individuals who successfully complete a veterans court program; to amend Article 3A of
12 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to suspension of
13 license for certain drug offenses, so as to allow veterans court divisions to restore or suspend
14 a veterans court participant's driver's license or issue a participant a limited driving permit
15 under certain circumstances; to provide for related matters; to repeal conflicting laws; and
16 for other purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 The General Assembly recognizes that veterans have provided and continue to provide an
20 invaluable service to our country and this state. In connection with a veteran's service, some
21 servicemen and servicewomen have incurred physical, emotional, or mental impairments
22 which cause or contribute to behaviors that may draw a veteran into the criminal justice
23 system. The General Assembly has determined that having dedicated veterans court
24 divisions is important to address the specialized treatment needs of veterans and that there
25 are resources, services, and treatment options that are unique to veterans that may best
26 facilitate a veteran's reentry into society.

SECTION 2.

27
28 Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general court
29 provisions, is amended by adding a new Code section to read as follows:

30 "15-1-17.

31 (a) As used in this Code section, the term:

32 (1) 'Risk and needs assessment' means an actuarial tool, approved by the Judicial Council
33 of Georgia and validated on a targeted population, scientifically proven to determine a
34 person's risk to recidivate and to identify criminal risk factors that, when properly
35 addressed, can reduce that person's likelihood of committing future criminal behavior.

36 (2) 'VA' means the United States Department of Veterans Affairs.

37 (3) 'Veteran' means a person who is a former member of the armed forces of the United
38 States or a state's National Guard.

39 (b)(1) Any court that has jurisdiction over criminal cases may establish a veterans court
40 division to provide an alternative to the traditional judicial system for disposition of cases
41 in which the defendant is a veteran.

42 (2) In any criminal case in which a defendant is a veteran and the defendant meets the
43 eligibility criteria for the veterans court division, the court may refer the case to the
44 veterans court division:

45 (A) Prior to the entry of the sentence, if the prosecuting attorney consents;

46 (B) As part of a sentence in a case; or

47 (C) Upon consideration of a petition to revoke probation.

48 (3) Each veterans court division shall establish a planning group to develop a written
49 work plan. The planning group shall include judges, prosecuting attorneys, sheriffs or
50 their designees, public defenders, probation officers, and persons having expertise
51 services available to veterans. The work plan shall address the operational, coordination,
52 resource, information management, and evaluation needs of the veterans court division.
53 The work plan shall include veterans court division policies and practices related to
54 implementing the standards and practices developed pursuant to paragraph (4) of this
55 subsection. The work plan shall ensure a risk and needs assessment is used to identify
56 the likelihood of recidivating and identify the needs that, when met, reduce recidivism.
57 The veterans court division shall combine judicial supervision, treatment of veterans
58 court division participants, and drug and mental health testing. Defendants charged with
59 murder, armed robbery, rape, aggravated sodomy, aggravated sexual battery, aggravated
60 child molestation, or child molestation shall not be eligible for entry into the veterans
61 court division, except in the case of a separate court supervised reentry program designed
62 to more closely monitor veterans returning to the community after having served a term

63 of incarceration. Any such court supervised community reentry program for mentally ill
64 offenders shall be subject to the work plan as provided for in this paragraph.

65 (4)(A) On or before January 1, 2015, the Judicial Council of Georgia shall establish
66 standards and practices for veterans court divisions, taking into consideration guidelines
67 and principles based on current research and findings published by experts on veterans'
68 health needs and treatment options, including, but not limited to, the VA and the
69 Georgia Department of Veterans Service. Standards and practices shall include, but
70 shall not be limited to, the use of a risk and needs assessment to identify the likelihood
71 of recidivating and identify the needs that, when met, reduce recidivism. The Judicial
72 Council of Georgia shall update its standards and practices to incorporate research,
73 findings, and developments in the veterans court field. Each veterans court division
74 shall adopt policies and practices that are consistent with the standards and practices
75 published by the Judicial Council of Georgia.

76 (B) On and after January 1, 2015, the Judicial Council of Georgia shall provide
77 technical assistance to veterans court divisions to assist them with the implementation
78 of policies and practices, including, but not limited to, guidance on the implementation
79 of risk and needs assessments in veterans court divisions.

80 (C) On or before July 1, 2014, the Judicial Council of Georgia shall create and manage
81 a certification and peer review process to ensure veterans court divisions are adhering
82 to the Judicial Council of Georgia's standards and practices and shall create a waiver
83 process for veterans court divisions to seek an exception to the Judicial Council of
84 Georgia's standards and practices. In order to receive state appropriated funds, any
85 veterans court division established on and after July 1, 2014, shall be certified pursuant
86 to this subparagraph or, for good cause shown to the Judicial Council of Georgia, shall
87 receive a waiver from the Judicial Council of Georgia.

88 (D) On and after July 1, 2014, the award of any state funds for a veterans court division
89 shall be conditioned upon a veterans court division attaining certification or a waiver
90 by the Judicial Council of Georgia. On or before September 1, the Judicial Council of
91 Georgia shall publish an annual report listing certified veterans court divisions.

92 (E) Pursuant to Code Section 15-5-24, the Administrative Office of the Courts shall
93 develop and manage an electronic information system for performance measurement
94 and accept submission of performance data in a consistent format from all veterans
95 court divisions. The Judicial Council of Georgia shall identify elements necessary for
96 performance measurement, including, but not limited to, recidivism, the number of
97 low-risk, moderate-risk, and high-risk participants in a veterans court division, drug
98 testing results, drug testing failures, the number of participants who successfully

99 complete the program, and the number of participants who fail to complete the
100 program.

101 (F) On or before July 1, 2016, and every three years thereafter, the Judicial Council of
102 Georgia shall conduct a performance peer review of the veterans court divisions for the
103 purpose of improving veterans court division policies and practices and the certification
104 and recertification process. Such review shall include an accounting of grants,
105 donations, and proceeds from outside sources received by a veterans court division.

106 (5) The court instituting the veterans court division may request the district attorney for
107 the judicial circuit or solicitor-general for the state court for the jurisdiction to designate
108 one or more prosecuting attorneys to serve in the veterans court division and may request
109 the circuit public defender, if any, to designate one or more assistant public defenders to
110 serve in the veterans court division.

111 (6) The clerk of the court instituting the veterans court division or such clerk's designee
112 shall serve as the clerk of the veterans court division.

113 (7) The court instituting the veterans court division may request other employees of the
114 court to perform duties for the veterans court division. Such employees shall perform
115 duties as directed by the judges of the veterans court division.

116 (8) The court instituting the veterans court division may enter into agreements with other
117 courts and agencies for the assignment of personnel from other courts and agencies to the
118 veterans court division, including probation supervision.

119 (9) Expenses for salaries, equipment, services, and supplies incurred in implementing
120 this Code section may be paid from state funds, funds of the county or political
121 subdivision implementing such veterans court division, federal grant funds, and funds
122 from private donations.

123 (c)(1) Each veterans court division shall establish written criteria that define the
124 successful completion of the veterans court division program.

125 (2) If the veterans court division participant successfully completes the veterans court
126 division program prior to the entry of judgment, the case against the veterans court
127 division participant may be dismissed by the prosecuting attorney.

128 (3) If the veterans court division participant successfully completes the veterans court
129 division program as part of a sentence imposed by the court, the sentence of the veterans
130 court division participant may be reduced or modified.

131 (4) Any plea of guilty or nolo contendere entered pursuant to this Code section shall not
132 be withdrawn without the consent of the court.

133 (d) Any statement made by a veterans court division participant as part of participation in
134 such court, or any report made by the staff of the court or program connected to the court,
135 regarding a participant's mental health shall not be admissible as evidence against the

136 participant in any legal proceeding or prosecution; provided, however, that if the
 137 participant violates the conditions of his or her participation in the division or is terminated
 138 from the veterans court division, the reasons for the violation or termination may be
 139 considered in sanctioning, sentencing, or otherwise disposing of the participant's case.
 140 (e) Nothing contained in this Code section shall be construed to permit a judge to impose,
 141 modify, or reduce a sentence below the minimum sentence required by law.
 142 (f) Notwithstanding any provision of law to the contrary, veterans court division staff shall
 143 be provided, upon request, with access to all records relevant to the treatment of the
 144 veterans court division participant from any state or local government agency, except
 145 records declared confidential by Code Section 49-5-40 to which access may be obtained
 146 pursuant to Code Section 49-5-41. All records and the contents thereof shall be treated as
 147 confidential, shall not be disclosed to any person outside of the veterans court division, and
 148 shall not be subject to Article 4 of Chapter 18 of Title 50 or subject to subpoena, discovery,
 149 or introduction into evidence in any civil or criminal proceeding. Such records and the
 150 contents thereof shall be maintained by the veterans court division and originating court
 151 in a confidential file not available to the public.
 152 (g) Any fees received by a veterans court division from a veterans court division
 153 participant as payment for veterans services shall not be considered as court costs or a fine.
 154 (h) The court shall have the authority to accept grants, donations, and other proceeds from
 155 outside sources for the purpose of supporting the veterans court division. Any such grants,
 156 donations, or proceeds shall be retained by the veterans court division for expenses and
 157 shall be accounted for as set forth in subparagraph (b)(4)(F) of this Code section."

158 **SECTION 3.**

159 Code Section 35-3-37 of the Official Code of Georgia Annotated, relating to review of an
 160 individual's criminal history record information, definitions, privacy considerations, written
 161 application requesting review, and inspection, is amended by redesignating paragraph (9) of
 162 subsection (a) as paragraph (10), by enacting a new paragraph (9), and by revising
 163 subparagraph (h)(2)(C) as follows:

164 "(9) 'Veterans treatment program' means a treatment program operated by a veterans
 165 court division in accordance with the provisions of Code Section 15-1-17."

166 "(C) The individual successfully completed a drug court treatment program or, mental
 167 health treatment program, or veterans treatment program, the individual's case has been
 168 dismissed or nolle prossed, and he or she has not been arrested for at least five years,
 169 excluding any arrest for a nonserious traffic offense; or"

170 **SECTION 4.**

171 Article 3A of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
172 suspension of license for certain drug offenses, is amended by revising Code Section
173 40-5-76, relating to restoration or suspension of defendant's driver's license or issuance of
174 limited driving permit, as follows:

175 "40-5-76.

176 A judge presiding in a drug court division, ~~or mental health court division, or veterans court~~
177 division may order the department to restore a defendant's driver's license that has been or
178 should be suspended pursuant to Code Section 40-5-75, suspend such license, or issue a
179 defendant a limited driving permit in accordance with the provisions set forth in
180 subsections (c) and (d) of Code Section 40-5-64 or with whatever conditions the court
181 determines to be appropriate under the circumstances as a reward or sanction to the
182 defendant's behavior in such court division. The court shall determine what fees, if any,
183 shall be paid to the department for such reward or sanction, provided that such fee shall not
184 be greater than the fee normally imposed for such services."

185 **SECTION 5.**

186 All laws and parts of laws in conflict with this Act are repealed.