

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

AS PASSED SENATE

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

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

17 **SECTION 1.**

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

SECTION 2.

26
27 Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general court
28 provisions, is amended by adding a new Code section to read as follows:

29 "15-1-17.

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

31 (1) 'VA' means the United States Department of Veterans Affairs.

32 (2) 'Veteran' means a person who is a former member of the armed forces of the United
33 States or a state's National Guard.

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

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

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

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

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

43 (3) Each veterans court division shall establish a planning group to develop a written
44 work plan. The planning group shall include judges, prosecuting attorneys, sheriffs or
45 their designees, public defenders, probation officers, and persons having expertise in
46 services available to veterans. The work plan shall address the operational, coordination,
47 resource, information management, and evaluation needs of the veterans court division.
48 The work plan shall include veterans court division policies and practices related to
49 implementing the standards and practices developed pursuant to paragraph (4) of this
50 subsection. The veterans court division shall combine judicial supervision, treatment of
51 veterans court division participants, and drug and mental health testing. The work plan
52 shall include eligibility criteria for the veterans court division. Defendants charged with
53 murder, armed robbery, rape, aggravated sodomy, aggravated sexual battery, aggravated
54 child molestation, or child molestation shall not be eligible for entry into the veterans
55 court division, except in the case of a separate court supervised reentry program designed
56 to more closely monitor veterans returning to the community after having served a term
57 of incarceration. Any such court supervised community reentry program for mentally ill
58 offenders shall be subject to the work plan as provided for in this paragraph.

59 (4) The Judicial Council of Georgia shall adopt standards and practices for veterans court
60 divisions, taking into consideration guidelines and principles based on available current
61 research and findings published by experts on veterans' health needs and treatment
62 options, including, but not limited to, the VA and the Georgia Department of Veterans

63 Service. The Judicial Council of Georgia shall update its standards and practices to
64 incorporate research, findings, and developments in the veterans court field if any such
65 research, findings, or developments are created. Each veterans court division shall adopt
66 policies and practices that will be consistent with any standards and practices published
67 by the Judicial Council of Georgia. Such standards and practices shall serve as a flexible
68 framework for developing effective veterans court divisions and provide a structure for
69 conducting research and evaluation for accountability. Such standards and practices are
70 not intended to be a certification or regulatory checklist.

71 (5) The court instituting the veterans court division may request the district attorney for
72 the judicial circuit or solicitor-general for the state court for the jurisdiction to designate
73 one or more prosecuting attorneys to serve in the veterans court division and may request
74 the circuit public defender, if any, to designate one or more assistant public defenders to
75 serve in the veterans court division.

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

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

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

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

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

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

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

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

98 (d) Any statement made by a veterans court division participant as part of participation in
99 such court, or any report made by the staff of the court or program connected to the court,

100 regarding a participant's mental health shall not be admissible as evidence against the
 101 participant in any legal proceeding or prosecution; provided, however, that if the
 102 participant violates the conditions of his or her participation in the division or is terminated
 103 from the veterans court division, the reasons for the violation or termination may be
 104 considered in sanctioning, sentencing, or otherwise disposing of the participant's case.
 105 (e) Nothing contained in this Code section shall be construed to permit a judge to impose,
 106 modify, or reduce a sentence below the minimum sentence required by law.
 107 (f) Notwithstanding any provision of law to the contrary, veterans court division staff shall
 108 be provided, upon request, with access to all records relevant to the treatment of the
 109 veterans court division participant from any state or local government agency, except
 110 records declared confidential by Code Section 49-5-40 to which access may be obtained
 111 pursuant to Code Section 49-5-41. All records and the contents thereof shall be treated as
 112 confidential, shall not be disclosed to any person outside of the veterans court division, and
 113 shall not be subject to Article 4 of Chapter 18 of Title 50 or subject to subpoena, discovery,
 114 or introduction into evidence in any civil or criminal proceeding. Such records and the
 115 contents thereof shall be maintained by the veterans court division and originating court
 116 in a confidential file not available to the public.
 117 (g) Any fees received by a veterans court division from a veterans court division
 118 participant as payment for veterans services shall not be considered as court costs or a fine.
 119 (h) The court shall have the authority to accept grants, donations, and other proceeds from
 120 outside sources for the purpose of supporting the veterans court division. Any such grants,
 121 donations, or proceeds shall be retained by the veterans court division for expenses and
 122 shall be accounted for as set forth in subparagraph (b)(4)(F) of this Code section."

123 **SECTION 3.**

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

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

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

135 **SECTION 4.**

136 Article 3A of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
137 suspension of license for certain drug offenses, is amended by revising Code Section
138 40-5-76, relating to restoration or suspension of defendant's driver's license or issuance of
139 limited driving permit, as follows:

140 "40-5-76.

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

150 **SECTION 5.**

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