

Senate Research Center  
S.B. 1940

By: Van de

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Veteran Affairs & Military

Installations

9/2/2009

Enrolled

#### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

There are approximately 1.7 million veterans in Texas. As servicemembers of the U.S. Armed Forces return from serving in Operation Enduring Freedom and Operation Iraqi Freedom, the number of veterans will continue to increase as will the unmet needs of veterans. To help meet the needs of this growing population, the 80th Legislature, Regular Session, 2007, established the Fund for **☛Veterans☛** Assistance (fund), which is a special dedicated fund in the state treasury outside the general revenue fund and administered by the Texas **☛Veterans☛** Commission (TVC). TVC is authorized to adopt rules governing the award of grants and the comptroller of public accounts is authorized to solicit and accept gifts and grants to the fund.

The fund is comprised of money transferred at the direction of the legislature, gifts and grants contributed at the direction of the legislature, and the earnings of the fund. Currently, Section 434.017 (Fund For **☛Veterans☛** Assistance), Government Code, provides that money in the fund may be appropriated to TVC to enhance or improve veterans' assistance programs, including veterans' representation and counseling, and to make grants to local communities to address veterans' needs.

However, current law does not allow TVC to issue grants on a statewide basis nor is TVC allowed to utilize money appropriated to the fund for administrative costs. Additionally,

current law does not allow the fund to operate as a nonprofit organization, thus precluding the fund from being eligible for many private donations, as well as participating in the state employee charitable campaign.

S.B. 1940 amends current law relating to the fund for veterans' assistance and to the establishment of pretrial veterans court programs.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 434.017(a), (c), and (e), Government Code, as redesignated and amended by Chapter 1418 (H.B. 3107), Acts of the 80th Legislature, Regular Session, 2007, as follows:

(a) Provides that the fund for veterans' assistance (fund) is a special fund in the state treasury outside the general revenue fund, and is composed of certain revenue, including money deposited to the fund to the credit of the fund under Section 502.1746, Transportation Code. Makes nonsubstantive changes.

(c) Authorizes money in the fund to be appropriated to the Texas **Veterans** Commission (TVC) to make grants to address veterans' needs, rather than make grants to local communities to address veterans' needs, and to administer the fund.

(e) Authorizes TVC, to carry out any purpose of this chapter, to solicit and accept a gift, grant, devise, bequest of money, security, service, or property, including money raised or a service provided by a volunteer or volunteer group, to promote

the work of TVC. Authorizes TVC to participate in the establishment and operation of an affiliated nonprofit organization that is established for the purpose of raising money for or providing services or other benefits to TVC. Authorizes a gift, grant, devise, or bequest to the fund to be appropriated in the same manner as other money in the fund, subject to any limitation or requirement placed on the gift, grant, devise, or bequest by the donor or granting entity. Deletes existing text authorizing the comptroller of public accounts (comptroller) to solicit and accept gifts and grants to the fund. Makes nonsubstantive changes.

SECTION 2. Amends Subchapter A, Chapter 434, Government Code, by adding Section 434.0171, as follows:

Sec. 434.0171. STATE EMPLOYEE CONTRIBUTIONS TO FUND FOR VETERANS' ASSISTANCE. Provides that for purposes of Subchapter I (Charitable Contributions), Chapter 659 (Compensation), TVC, for the sole purpose of managing the fund for veterans' assistance, is considered an eligible charitable organization entitled to participate in the state employee charitable campaign; and entitles a state employee to authorize a deduction for contributions to TVC for the purposes of managing the fund as a charitable contribution under Section 659.132 (Deduction Authorized), and authorizes TVC to use the contributions for the purposes listed in Section 434.017(c), as redesignated and amended by Chapter 1418 (H.B. 3107), Acts of the 80th Legislature, Regular Session, 2007.

SECTION 3. Amends Subchapter D, Chapter 502, Transportation Code, by adding Section 502.1746, as follows:

Sec. 502.1746. VOLUNTARY CONTRIBUTION TO VETERANS' ASSISTANCE FUND. (a) Entitles a person, when a person registers a motor vehicle under this chapter, to make a voluntary contribution in any amount to the fund established by Section 434.017, Government Code, as redesignated and amended by Chapter 1418 (H.B. 3107), Acts of the 80th Legislature, Regular Session, 2007.

(b) Requires the county assessor-collector to send any contribution made under this section to the comptroller for deposit in the state treasury to the

credit of the fund before the 31st day after the date the contribution is made.

SECTION 4. Amends Subtitle E, Title 7, Health and Safety Code, by adding Chapter 617, as follows:

Sec. 617.001. VETERANS COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) Defines "veterans court program."

(b) Requires the court in which the criminal case is pending, if a defendant successfully completes a veterans court program, as authorized under Section 76.011, Government Code, after notice to the attorney representing the state and a hearing in the veterans court at which that court determines that a dismissal is in the best interest of justice, to dismiss the criminal action against the defendant.

Sec. 617.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY. (a) Authorizes the commissioners court of a county to establish a veterans court program for persons arrested for or charged with any misdemeanor or felony offense. Provides that a defendant is eligible to participate in a veterans court program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program and if the court in which the criminal case is pending finds that the defendant is a veteran or current member of the United States armed forces, including a member of the reserves, national guard, or state guard; and suffers from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder, that resulted from the defendant's military service in a combat zone or other similar hazardous duty area and materially affected the defendant's criminal conduct at issue in the case.

(b) Requires the court in which the criminal case is pending to allow an eligible defendant to choose whether to proceed through the veterans court program or otherwise through the criminal justice system.

(c) Authorizes that proof of matters described by Subsection (a) be submitted to the court in which the criminal case is pending in any form the court determines to be appropriate, including military service and medical records, previous determinations of a disability by a veteran's organization or by the United States Department of **Veterans** Affairs, testimony or affidavits of other veterans or service members, and prior determinations of eligibility for benefits by any state or county veterans office. Requires that the court's findings accompany any docketed case.

Sec. 617.003. DUTIES OF VETERANS COURT. (a) Requires that a veterans court program established under this chapter ensure a person eligible for the program is provided legal counsel before volunteering to proceed through the program and while participating in the program, allow a participant to withdraw from the program at any time before a trial on the merits has been initiated, provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant, and ensure that the jurisdiction of the veterans court continues for a period of not less than six months but does not continue beyond the period of community supervision for the offense charged.

(b) Requires that a veterans court program established under this chapter make, establish, and publish local procedures to ensure maximum participation of eligible defendants in the county or counties in which those defendants reside.

(c) Provides that this chapter does not prevent the initiation of procedures under Chapter 46B (Incompetency to Stand Trial), Code of Criminal Procedure.

Sec. 617.004. ESTABLISHMENT OF REGIONAL PROGRAM. Authorizes the commissioners courts of two or more counties to elect to establish a regional veterans court program under this chapter for the participating counties.

Sec. 617.005. OVERSIGHT. (a) Authorizes the lieutenant governor and the speaker of the house of representatives to assign to appropriate legislative

committees duties relating to the oversight of veterans court programs established under this chapter.

(b) Authorizes a legislative committee or the governor to request the state auditor to perform a management, operations, or financial or accounting audit of a veterans court program established under this chapter.

(c) Requires a veterans court program established under this chapter to notify the criminal justice division of the governor's office before or on implementation of the program and provide information regarding the performance of the program to that division on request.

Sec. 617.006. FEES. (a) Authorizes a veterans court program established under this chapter to collect from a participant in the program a reasonable program fee not to exceed \$1,000 and a testing, counseling, and treatment fee in an amount necessary to cover the costs of any testing, counseling, or treatment performed or provided under the program.

(b) Authorizes that fees collected under this section be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the program. Requires that the fees be based on the participant's ability to pay and used only for purposes specific to the program.

SECTION 5. Amends Article 55.01(a), Code of Criminal Procedure, to provide that a person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if certain conditions exist, including that an indictment or information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested or, if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been dismissed or quashed, and the court finds that the indictment or information was dismissed or quashed because the person completed a pretrial intervention program authorized under Section 76.011, Government Code, or because the presentment had been made because of mistake, false information,

or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void.

SECTION 6. Effective date: upon passage or September 1, 2009.