
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 2568 **Hearing Date:** June 19, 2018
Author: Reyes
Version: May 25, 2018
Urgency: No **Fiscal:** Yes
Consultant: EC

Subject: *County Jails: Veterans*

HISTORY

Source: Author

Prior Legislation: SB 776 (Newman), Chapter 599, Statutes of 2017
AB 2263 (Bradford), Chapter 652, Statutes of 2014
AB 2098 (Levine), Chapter 163, Statutes of 2014
SB 1227 (Hancock), Chapter 658, Statutes of 2013
AB 2490 (Butler), Chapter 407, Statutes of 2013
AB 2371 (Butler), Chapter 403, Statutes of 2012
AB 2671 (Salas), 2007, vetoed by the Governor

Support: Unknown

Opposition: None known

Assembly Floor Vote: 76 - 0

PURPOSE

The purpose of this bill is to require county jails, upon detention of a person, to ask if the person has served in the U.S. military, document the person's response, and make this information available to the individual, their counsel, and the district attorney.

Existing law defines "veteran" as a person who served in the active military, naval, or air service of the United States for a period of at least 90 consecutive days or had a service-connected disability discharge, received an honorable discharge or was released from active duty under honorable conditions, and served during specified periods. (Mil. & Vet. Code, § 980.)

Existing law authorizes a court to place a defendant accused of a misdemeanor offense in a pretrial diversion program if the defendant was or is a member of the U.S. military and the defendant is possibly suffering from some mental health problem as a result of their service. (Pen. Code, § 1001.80, subs. (a) & (b).)

Existing law requires the court to consider a defendant's status as a veteran suffering from mental health problems when making specified sentencing determinations. (Pen. Code, § 1170.9, subd. (a).)

Existing law states that the Department of Veterans Affairs, in cooperation with the Department of Corrections and Rehabilitation (CDCR), must provide one trained and accredited employee per five state prisons to assist incarcerated veterans in applying for applicable veterans' benefits. (Mil. & Vet. Code, § 715.)

Existing law states that the CDCR must develop guidance policies with the goal of assisting incarcerated veterans in pursuing claims for veterans' benefits or any compensation provided because of honorable service in the military. (Pen. Code, § 2695.)

Existing law authorizes a veterans service organization to volunteer as a veterans service advocate in any CDCR facility. (Pen. Code, § 2695.1.)

Existing law states that a veterans' service advocate is authorized to develop a veterans economic recidivism prevention plan during the 180-day period preceding an inmates release. The plan's contents shall include, but are not limited to, the following:

- 1) Facilitating the inmate's access to county veteran service officers and other specified Veterans Affairs officers, so that the inmate may pursue potential claims for veterans' benefits; and
- 2) Developing a plan detailing how an inmate can access any veterans' benefits they may be eligible for. (Pen. Code, § 2695.2, subds. (a) & (b).)

Existing law requires the veterans service advocate to coordinate with the United States Department of Veterans Affairs when assisting a veteran apply for earned veterans' benefits. (Pen. Code, § 2695.3.)

Existing law states that the veterans service advocate shall coordinate with the California Department of Veterans Affairs and the applicable county veterans service officer for advice, assistance, training, and evaluating the efficacy of the veterans economic recidivism prevention plan. (Pen. Code, § 2695.)

Existing law requires the Judicial Council to, upon receiving funds, conduct a statewide study of veterans and veterans treatment courts and to evaluate the impact of veterans treatment courts on participant outcomes such as recidivism, mental health, homelessness, employment, substance abuse, and other specified results. (Gov. Code, § 68530.)

This bill requires county jails, upon detention of a person, to ask if the person has served in the U.S. military and document the person's response.

This bill shall make this information available to the person, their counsel, and the district attorney.

This bill becomes operative on January 1, 2020.

COMMENTS

1. Need for This Bill

The author states:

By inquiring about veteran status upon booking, this information along with other currently collected information goes to the DA's office as well as representing council. Having this information sooner will enable council to make an earlier determination about the possibility of Veteran Treatment Courts and will enable veterans who need them to be able to be seen in front of judges that have training and can better understand the issues that veterans may be dealing with.

2. Veterans in Criminal Justice System

There is a wealth of academic literature about the emotional fallout of veterans when they return to civilian life. The aftermath of service may include increased rates of post-traumatic stress disorder (PTSD), depression, traumatic brain injury, and substance abuse. An estimated 35% or 700,000 Iraq and Afghanistan veterans currently suffer from PTSD and major depression.¹ This furthers their need for comprehensive care and support for these individuals and their families.

According to the Institute for Veteran Policy:

Often learned military skills and tactics such as hyper-vigilance and rapid response to threatening encounters that enhance survival in combat may translate to aggressiveness, impulsivity, arrest, and potential for incarceration in the civilian community.²

The heightened rate of mental health disorders also increases veterans' interactions with law enforcement. From 2011 to 2012, an estimated 181,500 were serving time in correctional facilities. With the exception of military-operated facilities, these individuals accounted for 8% of all inmates in state and federal prison and local jail. An estimated 43% of veterans in prison had four or more prior arrests.³

3. Veteran Resources

As there has been a greater awareness of the ties between mental health disorders and incarceration, California statute has codified resources for veterans in the criminal justice system. California courts acknowledge an offender's particular circumstances in determining punishment and created alternative standards or sentencing applicable for at-risk groups. (Gov. Code, § 68530.) CDCR have developed policies to assist veterans in prison or jail to pursue claims for

¹ "Veterans and Criminal Justice," n.d., 11. <https://www.swords-to-plowshares.org/wp-content/uploads/Veterans-and-Criminal-Justice-A-Review-Literature-2012.pdf>

² "Veterans and Criminal Justice." <https://www.swords-to-plowshares.org/wp-content/uploads/Veterans-and-Criminal-Justice-A-Review-Literature-2012.pdf>

³ Jennifer Bronson, "Veterans in Prison and Jail, 2011-12," 2015, 22.

federal benefits, care, and compensation. (Pen. Code, § 2695.) State statute also authorizes veterans service organizations to volunteer as a veterans service advocate in any CDCR facility on their behalf. (Pen. Code, § 2695.1.) Advocates attribute the decline of incarcerated veterans to the increase of programs that assist veterans.⁴

It is essential that counsel and district attorneys understand offenders' background to appropriately advocate or charge them. This bill assists veterans in county jails in obtaining these services by checking if a newly received inmate had served in the military and forwarding that information to the inmate, their counsel, and the district attorney.

-- END --

⁴ "Incarcerated Veterans," accessed June 11, 2018, <https://www.calvet.ca.gov/VetServices/Pages/Incarcerated-Veterans.aspx>.