

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	5 - 0 - 0
Yeas:	Bonamici, Boquist, Dingfelder, Whitsett, Prozanski
Nays:	0
Exc.:	0
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	2/9, 2/11

WHAT THE MEASURE DOES: Allows district attorney's greater discretion in referring a member of the armed services, or a veteran to a supervised performance program if the referral is in the interest of justice and of benefit to the member of the armed services, the veteran and the community. Excludes offenses involving serious physical injury or a crime classified as a Class A felony or B felony involving physical injury. Requires that the veteran receive a discharge other than dishonorable. Applies to offenses that have not been adjudicated after the effective date of this bill. Takes effect on passage. Prohibits a service member charged with Rape I or II, Sodomy I or II, Unlawful Sexual Penetration I or II, or Sex Abuse I from being offered diversion. Prohibits a service member from being offered diversion if the service member is charged with a domestic violence crime while the veteran was subject to a domestic violence protective order in favor of the person. Requires the service member to waive the right to a speedy trial and to plead guilty or no contest to the charge. Requires the court to stay the proceeding for two years if the matter is a domestic violence charge.

ISSUES DISCUSSED:

- Brain injuries and post-traumatic stress may cause veterans to engage in criminal conduct
- 3000 Oregon National Guardsmen and women are returning to Oregon this year from active duty
- Guilty plea versus no contest plea
- It is the intent of the Senate Judiciary Committee and the Senate Veterans Committee that those with dishonorable discharged or bad conduct discharge not qualify for diversion

EFFECT OF COMMITTEE AMENDMENT: Prohibits a service member charged with Rape I or II, Sodomy I or II, Unlawful Sexual Penetration I or II, or Sex Abuse I from being offered diversion. Prohibits a service member from being offered diversion if the service member is charged with a domestic violence crime while the veteran was subject to a domestic violence protective order in favor of the person. Requires the service member to waive the right to a speedy trial and to plead guilty or no contest to the charge. Requires the court to stay the proceeding for two years if the matter is a domestic violence charge.

BACKGROUND: The Oregon National Guard is in the midst of its largest deployment since World War II with over 3,000 men and women on active duty. Many are scheduled to return over the next few months. Many have been sent to Iraq or Afghanistan. For many of these men and women this is not their first deployment. We now recognize that concussions from explosives and the stress of combat both cause injury to the brain. Injury to the brain causes people to react differently than they may have otherwise done, particularly when under stress. Concussions and combat stress increases the chances that some of these returning National Guard members will come into contact with law enforcement.

This bill would give greater discretion to district attorney's in placing veterans in a supervised performance program. Currently, a district attorney may refer anyone to a supervised performance program unless the person is charged with the crime of Driving Under the Influence of Intoxicants or an offense involving injury to another person.

Throughout our history, we have given benefits to veterans that have not been given to those who are not veterans. This has included preference in hiring, reduced mortgage rates, and school benefits. The United States Supreme Court, in

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This summary has not been adopted or officially endorsed by action of the committee.

dicta, recently recognized this preference in the context of a criminal law proceeding. *Porter v. McCollum* 558 U.S. ____ (2009).