

SESSION OF 2014

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2655

As Amended by House Committee on Veterans,
Military and Homeland Security

Brief*

HB 2655, as amended, would allow a defendant at the time of conviction or prior to sentencing to assert that the offense was committed as a result of mental illness, including post-traumatic stress disorder, stemming from service in a combat zone while in the U.S. Armed Forces. Under the provisions of the bill, the court would hold a hearing to determine the following:

- Whether the executive director of the Kansas Commission on Veterans' Affairs has certified the defendant served in a combat zone while in the U.S. Armed Forces;
- Whether the defendant has separated from the armed forces with an honorable discharge or a general discharge under honorable conditions;
- Whether the defendant suffers from a mental illness; and
- The mental illness was caused or exacerbated by service in a combat zone.

If the court determines the defendant has met the criteria established by the bill and the defendant's current crime and criminal history fall within a presumptive non-prison category under the sentencing guidelines, the court could order the defendant to undergo treatment. The bill would

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

allow the court to order the defendant to undergo either inpatient or outpatient treatment at any treatment facility or program operated by the U.S. Department of Defense, the Federal Veterans' Administration, and the Kansas National Guard.

Background

At the House Committee hearing, representatives from the Kansas American Legion, the Sunflower Chapter of the Military Officers Association of America, and the Association of Community Mental Health Centers of Kansas testified in favor of the bill. Additionally, the executive director of the Kansas Commission on Veterans' Affairs and a representative of the Office of Judicial Administration spoke in favor of the bill.

The House Committee amended the bill to clarify the executive director of the Kansas Commission on Veterans' Affairs would be required to certify if the defendant served in a combat zone and would not be required to make an assessment on mental illness. The Committee also amended the bill to allow those defendants who were separated from the armed forces with a general discharge under honorable conditions to assert a defense of mental illness as a result of serving in a combat zone. Additionally, the Committee expanded treatment of a defendant outlined in the bill to add the Federal Veterans' Administration to the list of agencies from which a defendant could seek treatment.

The fiscal note prepared by the Division of the Budget indicates the Kansas Commission on Veterans' Affairs could determine a veteran's service in a combat zone as well as separation status by examining the veteran's discharge papers and certification required by the bill, as introduced, would not have a fiscal effect on the agency. According to the Office of Judicial Administration, the bill would require additional time to be spent on cases filed in district court and in the number of appeals related to sentencing of veterans

convicted of criminal offenses. Any additional hearings would increase the time spent by district and appellate court judicial and non-judicial personnel in processing, researching, and hearing cases; however, as a result of not being able to determine how many cases may be involved, an accurate estimate of any fiscal impact cannot be determined.