

As Amended by House Committee

Session of 2014

HOUSE BILL No. 2655

By Committee on Veterans, Military and Homeland Security

2-12

1 AN ACT concerning crimes and punishment; relating to sentencing of
2 veterans; amending K.S.A. 2013 Supp. 73-1209 and repealing the
3 existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) Upon motion of the defendant at the time of
7 conviction or prior to sentencing, a defendant convicted of a criminal
8 offense may assert that such defendant committed such offense as a result
9 of mental illness, including posttraumatic stress disorder, stemming from
10 service in a combat zone in the United States armed forces. The court shall
11 hold a hearing to determine whether the defendant:

12 (1) ~~Has been certified by the executive director of the Kansas~~
13 ~~commission on veterans affairs as having~~ served in the armed forces of the
14 United States of America in a combat zone, as defined in section 112 of
15 the federal internal revenue code of 1986. **Proof of such service shall**
16 **consist of a certification by the executive director of the Kansas**
17 **commission on veterans affairs in accordance with K.S.A. 73-1209,**
18 **and amendments thereto;**

19 (2) has separated from such armed forces with an honorable discharge
20 **or general discharge under honorable conditions;**

21 (3) suffers from mental illness; and

22 (4) such mental illness was caused or exacerbated by events
23 occurring during such defendant's service in a combat zone.

24 (b) If the court determines that such defendant meets the criteria
25 provided in subsection (a) and such defendant's current crime of
26 conviction and criminal history fall within a presumptive nonprison
27 category under the sentencing guidelines, the court may order such
28 defendant to undergo **inpatient or outpatient** treatment from any
29 treatment facility ~~as those terms are defined in K.S.A. 59-2946, and~~
30 ~~amendments thereto, including any facility that provides services for~~
31 ~~veterans, on an outpatient basis or an inpatient basis, with the consent of~~
32 ~~the defendant. Such treatment facilities and programs shall include those~~
33 **or program** operated by the United States department of defense ~~and, the~~
34 **federal veterans' administration or the Kansas national guard with the**
35 **consent of the defendant.**

36 (c) Nothing in this section shall be construed to limit the court's

1 authority to:

2 (1) Order any other sanction pursuant to K.S.A. 2013 Supp. 21-6602
3 or 21-6604, and amendments thereto;

4 (2) order a mental examination pursuant to K.S.A. 22-3429, and
5 amendments thereto;

6 (3) order commitment pursuant to K.S.A. 22-3430 et seq., and
7 amendments thereto; or

8 (4) determine that a person is a mentally ill person subject to
9 involuntary commitment for care and treatment as defined in K.S.A. 59-
10 2946, and amendments thereto.

11 (d) As used in this section:

12 (1) "Mental illness" means a mental disorder manifested by a clinically
13 significant behavioral or psychological syndrome or pattern and associated
14 with either a painful symptom or an impairment in one or more important
15 areas of functioning, and involving substantial behavioral, psychological
16 or biological dysfunction, to the extent that the person is in need of
17 treatment; and

18 (2) "posttraumatic stress disorder" means posttraumatic stress
19 disorder as defined in the diagnostic and statistical manual of mental
20 disorders, fifth edition (DSM-5, 2013), of the American psychiatric
21 association and that occurred as a result of events during the person's
22 service in one or more combat zones.

23 (e) This section shall be a part of and supplemental to the Kansas
24 criminal code.

25 Sec. 2. K.S.A. 2013 Supp. 73-1209 is hereby amended to read as
26 follows: 73-1209. The executive director of the Kansas veterans'
27 commission, in accordance with general policies established by the
28 commission, shall:

29 ~~(1)~~(a) Collect data and information as to the facilities, benefits and
30 services now or hereafter available to veterans and ~~their~~ relatives and
31 dependents *of veterans*, and furnish such information to veterans and ~~their~~
32 relatives and dependents *of veterans* and local service officers of veterans'
33 organizations.

34 ~~(2)~~(b) Prepare plans for a comprehensive statewide veterans' service
35 program.

36 ~~(3)~~(c) Coordinate the program of state agencies which may properly
37 be utilized in the administration of various aspects of the problems of
38 veterans, and relatives and dependents of veterans, such as the ~~department~~
39 ~~of social and rehabilitation services~~ *Kansas department for children and*
40 *families*, the department of labor, the state board of education, the board of
41 regents and any other state office, department, board or commission
42 furnishing service to veterans or ~~their~~ relatives or dependents *of veterans*.

43 ~~(4)~~(d) Provide a central contact between federal and state agencies

1 dealing with the problems of veterans and ~~their~~ relatives and dependents of
2 *veterans*.

3 ~~(5)~~(e) Maintain records of cases handled by the executive director
4 which shall show at least the following information: ~~(a)~~(1) The name of
5 the veteran; ~~(b)~~(2) *the* claim or case number of the veteran; and ~~(c)~~(3) *the*
6 amount of monthly benefit received by the veteran, so as to facilitate the
7 necessary interchange of case histories among state administrative
8 agencies and provide a clearinghouse of information.

9 ~~(6)~~(f) Provide such services to veterans and ~~their~~ relatives and
10 dependents of *veterans* as are not otherwise offered by federal agencies.

11 ~~(7)~~(g) Provide a central agency to which veterans and ~~their~~ relatives
12 and dependents of *veterans* may turn for information and assistance.

13 ~~(8)~~(h) Provide and maintain such field services as shall be necessary
14 to properly care for the needs of veterans and ~~their~~ relatives and
15 dependents of *veterans* which shall not be operated in connection with the
16 ~~social and rehabilitation services~~ *Kansas department for children and*
17 *families*.

18 (i) *Provide certification of service of a veteran of the armed forces of*
19 *the United States of America in a combat zone to any sentencing judge*
20 *requesting such certification pursuant to section 1, and amendments*
21 *thereto*.

22 Sec. 3. K.S.A. 2013 Supp. 73-1209 is hereby repealed.

23 Sec. 4. This act shall take effect and be in force from and after its
24 publication in the statute book.