

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass
Vote: 5 - 0 - 0
Yeas: Close, Dingfelder, Kruse, Roblan, Prozanski
Nays: 0
Exc.: 0
Prepared By: Bill Taylor, Counsel
Meeting Dates: 3/6

WHAT THE MEASURE DOES: Requires courts to consider defendant’s servicemember status at sentencing. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- The term “servicemember” includes veteran with an honorable or general discharge
- The term “servicemember” excludes someone with a dishonorable discharge
- Will encourage court and counsel to ask if defendant is a servicemember
- 15,000 members of the Oregon National Guard have served on active duty during the Iraq and Afghanistan wars

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: After a verdict of guilty or a plea of guilty, a convicted defendant may present evidence to the court which supports a more lenient sentence. A court may consider all relevant evidence which the court deems appropriate. Senate Bill 124 expressly requires a court to consider a defendant’s status as a current servicemember or a veteran. However, the court may not impose a sentence that is less than the statutorily mandated mandatory minimum sentence.

The 2010 legislature enacted Senate Bill 999, which gives district attorneys greater discretion in referring a servicemember or veteran to a supervised performance program if the referral is in the interest of justice and benefits the servicemember or veteran, and the community. Senate Bill 999 excludes offenses involving serious physical injury, and Class A and B felonies involving physical injury. Senate Bill 999 does not benefit veterans who have been dishonorably discharged. Senate Bill 999 prohibits diversion agreements for servicemembers charged with Rape I or II, Sodomy I or II, Unlawful Sexual Penetration I or II, or Sex Abuse I. The bill prohibited a servicemember from being offered diversion if the servicemember is charged with a domestic violence crime while subject to a domestic violence protective order. Senate Bill 999 requires the servicemember to waive the right to a speedy trial, and to plead guilty or no contest to the charge. The bill requires the court to stay the proceeding for two years if the matter is a domestic violence charge.