

# D R A F T

## SUMMARY

Directs court to, at time of arraignment, notify defendant that status as servicemember may make defendant eligible for treatment programs, specialty courts or sentencing mitigation. Prohibits use of defendant's status as servicemember from being used as aggravating factor for purposes of sentencing.

Directs court to, upon dismissal or entry of judgment in criminal proceeding, provide Oregon Criminal Justice Commission with specified information concerning defendant when court has been notified that defendant is servicemember. Directs commission to provide biannual report to Legislative Assembly on information received from courts concerning servicemember defendants.

Directs Department of Veterans' Affairs to conduct study on establishing pilot program with purpose of assisting servicemembers involved in criminal justice system and present report on findings to interim committees of Legislative Assembly related to veterans' affairs on or before September 15, 2020.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to persons with military service involved in the criminal justice  
3 system; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. As used in sections 1 to 3 of this 2019 Act,**  
6 **“servicemember” means a person who is a member, or who served as**  
7 **a member, of the Armed Forces of the United States, the reserve**  
8 **components of the Armed Forces of the United States or the National**  
9 **Guard.**

10 **SECTION 2. (1) At the time of arraignment on a criminal charge,**

1 the court shall inform the defendant that the defendant's status as a  
2 servicemember may make the defendant eligible for treatment pro-  
3 grams, specialty courts or mitigated sentencing, and that the defend-  
4 ant may obtain information about these options by consulting with the  
5 defendant's attorney.

6 (2) The fact that a defendant is a servicemember may not be used  
7 as an aggravating factor in determining the defendant's sentence.

8 **SECTION 3.** (1)(a) In a criminal proceeding the defendant's attorney  
9 may, with the permission of the defendant, notify the court that the  
10 defendant is a servicemember.

11 (b) At the defendant's request, the court shall seal within the court  
12 file any information concerning the defendant's status as a  
13 servicemember and may not disclose the information except as pro-  
14 vided in subsection (3) of this section.

15 (2) Upon dismissal or entry of judgment in a criminal proceeding  
16 in which the court has been notified under subsection (1) of this sec-  
17 tion, the court shall provide the Oregon Criminal Justice Commission  
18 with information concerning the defendant and the proceeding as de-  
19 scribed in this section.

20 (3) The court shall provide the commission, on a form described in  
21 subsection (4) of this section, with as much of the following informa-  
22 tion as is available or provided to the court:

23 (a) The defendant's name.

24 (b) The charges in the accusatory instrument.

25 (c) The disposition of each charge, including the sentence imposed,  
26 if any.

27 (d) Whether the proceeding was adjudicated in a specialty court as  
28 defined in ORS 137.680, and if so, the specific type of specialty court.

29 (e) The gender, gender identity, sexual orientation and race and  
30 ethnicity of the defendant, unless the defendant objects to the pro-  
31 vision of information described in this paragraph.

1 (f) Any information concerning the defendant's military service,  
2 including a copy of the defendant's DD Form 214 or other discharge  
3 paperwork and the defendant's discharge status.

4 (g) Whether the defendant is receiving disability compensation from  
5 the United States Department of Veterans Affairs.

6 (4) The Judicial Department shall develop a form for providing in-  
7 formation concerning a servicemember defendant to the commission  
8 as required by this section and shall ensure that the forms are dis-  
9 tributed and available for use by the court.

10 (5)(a) No later than March 15 and September 15 of each year, be-  
11 ginning in 2020, the commission shall provide biannual reports to the  
12 Legislative Assembly, in the manner provided under ORS 192.245, on  
13 the information received from courts under this section.

14 (b) The commission shall ensure that a report under this subsection  
15 does not contain personally identifying information concerning any  
16 servicemember defendant.

17 SECTION 4. The Department of Veterans' Affairs shall conduct a  
18 study on establishing a pilot program with the purpose of assisting  
19 servicemembers involved in the criminal justice system, and present  
20 the results of the study, along with any recommended legislation, in  
21 a report to the interim committees of the Legislative Assembly related  
22 to veterans' affairs in the manner provided under ORS 192.245 on or  
23 before September 15, 2020.

24 SECTION 5. Section 4 of this 2019 Act is repealed on January 2, 2021.

25 SECTION 6. This 2019 Act takes effect on the 91st day after the date  
26 on which the 2019 regular session of the Eightieth Legislative Assem-  
27 bly adjourns sine die.