

House Bill 2462

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon State Bar Military and Veterans Law Section)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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 system; and prescribing
3 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, "servicemember" means a person**
6 **who is a member, or who served as a member, of the Armed Forces of the United States,**
7 **the reserve components of the Armed Forces of the United States or the National Guard.**

8 **SECTION 2. (1) At the time of arraignment on a criminal charge, the court shall inform**
9 **the defendant that the defendant's status as a servicemember may make the defendant eli-**
10 **gible for treatment programs, specialty courts or mitigated sentencing, and that the de-**
11 **fendant may obtain information about these options by consulting with the defendant's**
12 **attorney.**

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

15 **SECTION 3. (1)(a) In a criminal proceeding the defendant's attorney may, with the per-**
16 **mission of the defendant, notify the court that the defendant is a servicemember.**

17 **(b) At the defendant's request, the court shall seal within the court file any information**
18 **concerning the defendant's status as a servicemember and may not disclose the information**
19 **except as provided in subsection (3) of this section.**

20 **(2) Upon dismissal or entry of judgment in a criminal proceeding in which the court has**
21 **been notified under subsection (1) of this section, the court shall provide the Oregon Criminal**
22 **Justice Commission with information concerning the defendant and the proceeding as de-**
23 **scribed in this section.**

24 **(3) The court shall provide the commission, on a form described in subsection (4) of this**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 section, with as much of the following information as is available or provided to the court:

2 (a) The defendant's name.

3 (b) The charges in the accusatory instrument.

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

5 (d) Whether the proceeding was adjudicated in a specialty court as defined in ORS
6 137.680, and if so, the specific type of specialty court.

7 (e) The gender, gender identity, sexual orientation and race and ethnicity of the defend-
8 ant, unless the defendant objects to the provision of information described in this paragraph.

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

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

13 (4) The Judicial Department shall develop a form for providing information concerning a
14 servicemember defendant to the commission as required by this section and shall ensure that
15 the forms are distributed and available for use by the court.

16 (5)(a) No later than March 15 and September 15 of each year, beginning in 2020, the
17 commission shall provide biannual reports to the Legislative Assembly, in the manner pro-
18 vided under ORS 192.245, on the information received from courts under this section.

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

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

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

27 **SECTION 6.** This 2019 Act takes effect on the 91st day after the date on which the 2019
28 regular session of the Eightieth Legislative Assembly adjourns sine die.

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