

PETE CONATY & ASSOCIATES

Government Relations

1107 9th Street, Suite 620
Sacramento, CA 95814
www.peteconaty.com

(916) 492-0550
(916) 492-8957 fax
(916) 768-8940 mobile

-FLOOR ALERT-

SB 725-JACKSON (FILE #68)

MILITARY & VETERANS: PRE-TRIAL DIVERSION

SUPPORT



SB 725 (JACKSON) – WILL SAVE MILITARY CAREERS AND PROTECTS PUBLIC SAFETY

SB 725 is supported by a broad coalition of veterans' groups, legal organizations, and behavioral health groups because it is the right thing to do for California's active duty military and veterans. *(SB725 passed the Senate 39-0)*

Sponsors:

California Veterans Legal Task Force
AMVETS, Department of California

Veterans Service Organization supporters:

American G.I. Forum of California
American Legion-Department of California
California Association of County Veterans Service Officers
California State Commanders Veterans Council
Military Officers Association of America-California Council of Chapters
National Guard Association of California
Association of the U.S. Army, SGM Jon R. Cavaiani Chapter
Jewish War Veterans of the United States, Department of California
Military Officers Association of America, Department of California
Reserve Officers Association of America, Chapter of the Golden West

Legal and mental health organization supporters:

American Civil Liberties Union
California Attorneys for Criminal Justice
California Public Defenders Association
County Behavioral Health Directors Association

Should one non-serious civilian DUI arrest destroy an otherwise honorable military career?

SB 725 will stop this from occurring by correcting a conflict in California law which does not allow active duty military who are charged with DUI's to benefit from the military diversion statute even after successful completion of 18 months of treatment for their military-related mental health condition.

The vast majority of those affected service men and women have never been in trouble with the law before, even after 3-4 stressful combat tours overseas. Their alcohol usage stems from self-medication to curb trauma caused intrusive thoughts of combat, sexual assault, and traumatic brain injuries, not because they like to party and use bad judgment.

SB 725 will better protect the public by ensuring these service men and women get 12-18 months of federally funded treatment for the underlying causes which lead them to self-medication with alcohol.

Without diversion, they will simply plead guilty to a DUI, pay a fine and, most likely, serve 1-2 days in jail and go back out and reoffend because they have not treated the underlying cause.

SB 725 clarifies that active duty military (and veterans) who suffer from military related traumatic mental health conditions and are before the court charged with violations of Vehicle Code sections 23152 and 23153 dealing with DUIs are and have always been eligible for military diversion under Penal Code section 1001.80. This legislation is to correct an oversight in the statutory language to avoid a prolonged period of confusion while differing opinions of Court of Appeal divisions work through the appeals process to the California Supreme Court.

This controversy arose when most California courts interpreted the plain language of Penal Code Section 1001.80 referring to "a misdemeanor" as including Vehicle Code sections 23152 and 23153 misdemeanor offenders, while other courts relied on a 1981 enacted statute Vehicle Code section 23460 as denying any form of diversion on these offenses.

Currently, in San Diego County, more than thirty cases involving offenders charged with Vehicle Code sections 23152 misdemeanors are awaiting resolution of this issue. The majority of which remain on active duty and many have served multiple tours in the war zones since 9/11. Their careers are ended if criminal proceedings are not timely resolved. When they are convicted, they will be terminated from the military due to their civilian misdemeanor DUI conviction. They will be given Other than Honorable (OTH) discharges regardless of how many years of honorable service. This OTH discharge bars them from VA healthcare at a time when they need it most. It will also make them ineligible for many federal benefits that require an honorable discharge such as GI Bill educational benefits and VA home loans. This also shifts their treatment and assistance from the federal government onto state and local county healthcare and assistance programs. Data today shows that at least 1/3 of all persons who seek military diversion are charged with violations of Vehicle Code section 23152/23153. [Report on Military Diversion Program,

PC1001.80, of the Superior Court of California, County of San Diego January 1, 2015-December 31, 2016) DUI's make up the most common offenses committed by veterans with mental health conditions – which is expected since self-medication is widely known to be connected to symptoms of mental health conditions like post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI). Any incentive that gets the veteran into treatment helps protect the public safety. The near zero recidivism rates for those who have completed veterans' treatment court and other diversion programs bear this out. (San Diego VTRC Pilot Program 3-year Cumulative Report) In counties with a large active duty military population, nearly half of those seeking diversion are still on active duty. (*supra* Report on Military Diversion).

In enacting Penal Code section 1001.80, while it was clearly the intent of the legislature to carve out an exception to the bar on diverting Vehicle Code section 23152 and 23153 offenders who met the criteria for inclusion, the differing interpretations by courts have necessitated SB 725. This bill specifically carves out an exception to Vehicle Code section 23460 and its relevant case law interpretations and allows military and veterans who are charged with misdemeanors including Vehicle Code section 23152 and 23153 to be eligible for military diversion as long as the other criteria stated in Penal Code section 1001.80 are met.

This urgency legislation is needed to protect public safety and restore military personnel and veterans to normal life. The diversion and treatment of veterans with mental health conditions from their military service is important to the safety and health of the people of California. Untreated mental health conditions have strong propensity to lead to self-medication with alcohol and drugs. (see National Center for PTSD website www.ncptsd@va.gov)

The decision from the Supreme Court will take approximately 18 months. Courts around the state are experiencing requests for military diversion from veterans charged with misdemeanor violations of Vehicle Code sections 23152 and 23153 in significantly high numbers. Courts are denying admission of eligible offenders in many counties while others are accepting these cases. Legal limitations preclude continuing these cases until such decision is made through the courts, which necessitates SB 725 passage now.

The Legislature previously determined military diversion was necessary to protect the public before. Waiting for the Supreme Court, which is 18 months away, can be avoided by passage of SB 725.

Do not end these distinguished and honorable military careers over one misdemeanor DUI conviction. That is not what the law is intended to do.

VOTE “AYE” on SB 725

(v.07/17/17)