

Permissive Veterans' Preference in Private Employment, Employment Reinstatement, In-state Tuition, Professional Credentialing, Municipal and District Court Diversion, Court-Ordered Treatment, and Sentencing; HB 2154

HB 2154 establishes a permissive veterans' preference in private employment; establishes employment reinstatement protections for certain service members; provides in-state tuition to certain military personnel and their family members; modifies the statute relating to professional credentialing for military service-members and military spouses; and amends statutes related to diversions, court-ordered treatment, and sentencing with regard to military service members.

Permissive Veterans' Preference in Private Employment

The bill authorizes a private employer to adopt a policy to give a hiring preference to a veteran who meets the requirements of the job. The bill requires such a policy to be in writing and to be applied consistently to all decisions regarding initial employment. Veterans are required to provide the employer with proof of military service and proof of honorable discharge or general discharge under honorable conditions from military service.

Employment Reinstatement

The bill also provides employment reinstatement protections to any person employed in Kansas who is called or ordered to state active duty by Kansas or any other state, whether the person is a member of the Kansas Army National Guard, the Kansas Air National Guard, or other military force of Kansas or any other state. To receive these employment protections, a person eligible under the bill must comply with other requirements in continuing law, including provision of adequate notice to the employer and release from state active duty under honorable conditions. The law had provided employment protections only to persons called or ordered to duty by the State of Kansas who are members of a Kansas military force.

In-State Tuition for Certain Military Personnel, Veterans, and Military Family Members

The bill grants in-state tuition and fees to current military personnel, National Guard personnel, veterans, military spouses, and dependents who are attending post-secondary education institutions and are eligible to receive educational assistance under federal law granting such assistance to veterans, regardless of their length of residency in Kansas. In order to receive in-state tuition and fees, the person must be continuously enrolled and file a letter of intent to establish residency in Kansas.

Professional Credentialing for Military Service Members and Military Spouses

The bill modifies statutory provisions related to professional credentialing for military service members and military spouses. The bill also inserts a time frame in continuing law that requires any professional licensing body, with the exception of those regulating the legal profession, to issue a license, registration, or certification by endorsement, reinstatement, or reciprocity to a military service member or nonresident military spouse. Under the bill, the

licensing body is required to issue the license within 60 days after a complete application is submitted; former law did not specify a time frame. The bill also extends from three months to six months the amount of time a service member or military spouse may have a license on a probationary basis when the licensing body does not have licensure, registration, or certification by endorsement, reinstatement, or reciprocity and the service member or military spouse meets certain criteria. The bill also permits a licensing body to grant licensure to any person who meets the requirements under this section but was separated from the military under less than honorable conditions.

Municipal and District Court Diversion

The bill expands the list of factors that must be considered by prosecuting attorneys when determining whether to enter into a diversion agreement with a defendant, by including the following factors:

- Whether there is a probability the defendant committed the crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder, or traumatic brain injury (all terms defined below) connected to service in a combat zone while in the U.S. Armed Forces; and
- If so, whether there is a probability the defendant will cooperate with and benefit from inpatient or outpatient treatment in a facility operated by the U.S. Department of Defense, the U.S. Department of Veterans Affairs, or the Kansas National Guard, with the defendant's consent, as a condition of diversion.

Court-Ordered Treatment

Former law had allowed a defendant, at the time of conviction or prior to sentencing, to assert the offense was committed as a result of mental illness stemming from service in a combat zone while in the U.S. Armed Forces. If the court determines the defendant meets certain criteria, and would fall within a presumptive non-prison category under sentencing guidelines, the court may order the defendant to undergo inpatient or outpatient treatment in facilities or programs operated by the U.S. Department of Defense, the U.S. Department of Veterans Affairs, or the Kansas National Guard.

The bill makes the following changes:

- Replaces the term “mental illness” with the phrase “injury, including major depressive disorder, polytrauma, post-traumatic stress disorder, or traumatic brain injury” and provides the following definitions:
 - “Major depressive disorder” and “post-traumatic stress disorder” mean the same as the terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5, 2013);
 - “Polytrauma” means injury to multiple body parts and organ systems that occurred as a result of events during the defendant's service in one or more combat zones; and

- “Traumatic brain injury” means injury to the brain caused by physical trauma that occurred as a result of events during the defendant’s service in one or more combat zones;
- Eliminates from the qualifying criteria the requirement that the defendant separated from the armed forces with an honorable discharge or general discharge under honorable conditions; and
- Provides an alternative for a defendant who meets the qualifying criteria but is ineligible for treatment in facilities or programs operated by the U.S. Department of Defense, the U.S. Department of Veterans Affairs, or the Kansas National Guard. If a court determines such defendant meets the requirements for treatment under the alternative sentencing provisions of 2003 SB 123 (applicable to certain nonviolent offenders convicted of drug possession), the statutes pertaining to SB 123 must apply.

Sentencing

The bill expands the nonexclusive list of mitigating factors a sentencing judge may consider in determining whether to depart from the presumptive sentence provided by sentencing guidelines. In addition to the mitigating factors in continuing law, the judge could consider whether the offender committed the crime as a result of an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder, or traumatic brain injury connected to service in a combat zone while in the U.S. Armed Forces.