

**Assembly Bill No. 1542**

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Passed the Assembly September 7, 2005

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*Chief Clerk of the Assembly*

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Passed the Senate September 6, 2005

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2005, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 1170.9 of the Penal Code, relating to sentencing.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1542, Parra. Crimes by veterans: sentencing.

Existing law establishes certain treatment programs as alternatives to incarceration to which certain offenders may be referred, as specified. Existing law further provides that in the case of any person convicted of a felony who would otherwise be sentenced to state prison, if the court finds that the defendant was a member of the military forces of the United States who served in combat in Vietnam and who suffers from substance abuse or psychological problems resulting from that service, the court may order the defendant committed to the custody of federal correctional officials for incarceration for a term equivalent to that which the defendant would have served in state prison, provided the defendant agrees to the commitment, the court has determined that appropriate federal programs exist, and federal law authorizes the receipt of the defendant under those conditions.

This bill would revise this provision to provide that (1) the provision shall apply to any person convicted of a misdemeanor who would otherwise be sentenced to county jail, and any person convicted of a felony and placed on probation who would otherwise be sentenced to state prison, who alleges that he or she committed the offense as a result of post traumatic stress disorder, substance abuse, or psychological problems stemming from military service in a combat theater; (2) the court shall, prior to any sentencing, hold a hearing to determine whether the defendant was a member of the military forces of the United States who served in combat and assess whether the defendant suffers from post traumatic stress disorder, substance abuse, or psychological problems as a result of that service; and (3) the court may order a defendant who meets the above description to be committed to any appropriate local, state, federal, or private nonprofit treatment program for which the defendant is eligible for a term not to exceed that which the defendant would have

served in county jail or state prison, provided the defendant agrees to the commitment. The bill would also provide that the court, in assessing whether a defendant convicted of a felony should be placed on probation, shall consider the fact that the defendant suffers from post traumatic stress disorder, substance abuse, or psychological problems as a result of military service in a combat theater. The bill would further provide that a defendant granted probation under these provisions and committed to a residential treatment program shall earn sentence credits for the actual time the defendant served in residential treatment. By revising the penalties for existing crimes and by expanding the scope of duties of local probation and health officials, this bill would impose a state-mandated local program upon local government.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1170.9 of the Penal Code is amended to read:

1170.9. (a) In the case of any person convicted of a misdemeanor or a felony who would otherwise be sentenced to county jail or state prison and who alleges that he or she committed the offense as a result of post traumatic stress disorder, substance abuse, or psychological problems stemming from service in a combat theater in the military forces of the United States, the court shall, prior to any sentencing, hold a hearing to determine whether the defendant was a member of the military forces of the United States who served in combat and shall assess whether the defendant suffers from post traumatic

stress disorder, substance abuse, or psychological problems as a result of that service.

(b) (1) If the court concludes that a defendant convicted of a felony is a person described in subdivision (a), the court may, if the defendant is otherwise eligible for probation and the court places the defendant on probation, order the defendant committed to the custody of a local, state, federal, or private nonprofit treatment program for which the defendant is eligible for a term not to exceed that which the defendant would have served in state prison, provided the defendant agrees to the commitment and the court has determined that an appropriate local, state, federal, or private nonprofit treatment program exists.

(2) When determining the “needs of the defendant,” pursuant to Section 1202.7, the court shall consider the fact that the defendant is a person described in subdivision (a) in assessing whether the defendant should be placed on probation.

(c) If the court concludes that a defendant convicted of a misdemeanor is a person described in subdivision (a), the court may order the defendant committed to the custody of a local, state, federal, or private nonprofit treatment program for which the defendant is eligible for a term not to exceed that which the defendant would have served in county jail, provided the defendant agrees to the commitment and the court has determined that an appropriate local, state, federal, or private nonprofit program exists.

(d) The court may defer the sentencing of a defendant until after the defendant has successfully completed the treatment program described in this section.

(e) A defendant granted probation under this section and committed to a residential treatment program shall earn sentence credits for the actual time the defendant served in residential treatment.

(f) The court, in making an order under this section to commit a defendant to a treatment program, shall give preference to a treatment program that has a history of successfully treating combat veterans who suffer from post traumatic stress disorder, substance abuse, or psychological problems as a result of that service.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for

certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.





Approved \_\_\_\_\_, 2005

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*Governor*