

FISCAL NOTE
Requested by Legislative Council
01/19/2015

Amendment to: Engrossed HB 1106

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

No material fiscal impact

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

No material fiscal impact

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

n/a

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

n/a

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

n/a

Name: Dave Krabbenhoft
Agency: DOCR
Telephone: 701-328-6135
Date Prepared: 01/20/2015

FISCAL NOTE
 Requested by Legislative Council
 01/19/2015

Amendment to: Engrossed HB 1106

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

No material fiscal impact

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

No material fiscal impact

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

n/a

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

n/a

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

n/a

Name: Dave Krabbenhoft

Agency: DOCR

Telephone: 701-328-6135

Date Prepared: 01/20/2015

2015 HOUSE JUDICIARY

HB 1106

2015 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1106
1/7/2015
21746

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to sentencing of current and former members of the military.

Minutes:

Attachments #1,2,3, Handout 4

Chairman K.Koppelman: Opened the hearing on HB 1106.

Brigadier General Alan Dohrmann, Deputy Adjutant General for ND National Guard:
(See testimony #1) (:49-4:13)

Rep. L. Klemin: You mentioned service connected disabilities or mental illness yet I don't see the word service connected in this bill.

Alan Dohrmann: It was not intentionally omitted. We talked in the hallway today with some folks from Human Services and there might be some things we need to change with this bill from all the stake holders. Most of our cases are service connected that come to us disabilities. I know there are efforts under way in Fargo to look at behavioral issues and mental illness in all criminal defendants to see if there is other opportunities to provide them rehabilitation rather than prison. PTSD and TBI cases are the ones we have seen stemming from Iraq and Afghanistan and have been service connected.

Rep. L. Klemin: Should it say service connected even from years ago. I was in the service years ago so if I had been convicted of a crime would this bill require them to look at my service 45 years ago?

Alan Dohrmann: If there is a connection with your service and the behavioral health issue you are having or mental illness and it would say yes it would be taken into consideration. If we need to amend the bill to clear that up I have no objection.

Rep. K. Hawken: Wouldn't this be a good idea in general. Shouldn't we be doing that as far as the mental illness piece on every case?

Alan Dohrmann: Human Services in the hallway would say yes. We have looked to other states like Minnesota, Illinois, California and the list goes on and on and the one we have

here is very similar to the one Minnesota has. We see this as a first step. There have been efforts with ND Veterans Administration and with the Supreme Court to look at more robust veteran's court but those things would need additional resources going forward.

Rep. D. Larson: Would this be something that the court would be required to do in many cases and therefore really increase court costs?

Alan Dohrmann: I don't see additional resources. If they have a service connected injury or they suffer from PTSD or TBI they will be entitled to services from the veteran's administration. In Minnesota that is where they go first.

Rep. D. Larson: If the court is directing someone to get an evaluation then isn't the court responsible for paying for it?

Alan Dohrmann: Yes it would go through the Dept. of Corrections for the presentence investigation. On a serious matter I think that happens in most cases anyway. On a misdemeanor at least with this in the law the judge would ask the question. We want to insure veterans get this question asked every time he comes into contact with the criminal justice system. So that there are alternatives to prison time.

Rep. Mary Johnson: I have a concern with the wording that if a defendant is currently serving or has served in the armed forces of the US and has been diagnosed already. Aren't there service members that slip through the cracks whose symptoms don't present themselves until long after their service has ended?

Alan Dohrmann: Absolutely there are. We also know that service members will not seek help until they are forced to sometimes. Nothing here says anything but to ask the question. Hopefully the service member will then get the help he needs.

Rep. Mary Johnson: Aren't we possibly missing an entire group of service members. If the initial question is have you been diagnosed and if not does that person proceed in a different manner than somebody who has been previously diagnosed?

Alan Dohrmann: If the service member is not ready to get help and the question is asked are you in the military or have you been in the military and he says yes and have you been diagnosed with a mental illness or behavior issue and he says no and he doesn't choose to get help I agree that person could fall through the cracks. Until they are ready to receive the help it can be difficult to get them the help they need.

Rep. Lois Delmore: In the other states you mentioned are there other provisions for mental health services such as this offered to the entire population; not just to military members? I am concerned we are trying to help the entire population in the state and I do understand the reason for this bill draft and what it is you are doing.

Alan Dohrmann: No I am not familiar with other states. Our focus is on our veterans and our members who are currently serving the National Guard. I brought up the case in Minnesota where they were heading down that road at least with veterans. The fiscal impact was so high they backed off. This draft is basically what Minnesota ended up with.

Rep. Lois Delmore: Is there any statistics that there is a greater need for this bill because of what we are seeing with our veterans.

Alan Dohrmann: I do not specific figures for ND. There is an estimated 300,000 service members suffering with PTSD; another 300,000 that have mild traumatic brain injury. There is a spike after every conflict.

Rep. L. Klemin: Line 6 when he appears in criminal court and is convicted of a crime; that would apply both if someone had a jury trial and/if someone plead guilty as part of a plea agreement?

Alan Dohrmann: Yes

Rep. L. Klemin: Line 9 where it says being diagnosed as having a mental illness. Is that term defined here anywhere?

Alan Dohrmann: I just had a great conversation with Human Services before we came in here and I think their recommendation would be that in line 9 we would remove the term mental and replace it with behavior health condition; which is the current term that would encompass what I have stated in my testimony we have and would also look at mild thematic brain injury. It may not fall under mental illness, but may be a contributing factor to the criminal conduct.

Rep. L. Klemin: Then it would include addition?

Alan Dohrmann: That is my understanding.

Rep. K. Wallman: Thematic brain injury has several similarities to artisan. They may have a behavior that breaks the rules. Before that child is disciplined they undergo a manifestation hearing to determine whether the behavior is a manifestation of the disability and I see this as very similar. It is critical to make sure the person who broke the law or rules get the punishment or treatment that is appropriate based on what is going on with them. With Rep. L. Klemin point I do think service connected behavioral health condition would be more appropriate and specifically define that so that the person doing the diagnosing is qualified to do so. I would like to see that in the bill.

Chairman K.Koppelman: As I look at this whole realm of mental health issues one thing that occurs to me that it is really a two-step process. Getting help is one of them for the problem and the other one is moving on with life after that. There has also been a stigma out there in the public when it comes to employment and all kinds of other things if someone has this kind of thing in their history. What has been your experience with military personnel in terms of main stream or getting back into the real world after dealing with an issue like this?

Alan Dohrmann: There are lots of challenges. The individual I talked about in my testimony continues to struggle. On that night he was going to die by suicide by cop. That did not happen because of some great law enforcement officers. He got the services he

needed, but he continues to struggle. There is an MPR program that followed this individual and his four battle buddies because they all got hit at the same time. They all have had varying degrees of struggles and success. It can be difficult. Discussed the nature of the struggles of war versus the home environment. I think this bill is a step in the right direction.

Chairman K.Koppelman: You mentioned veteran's courts, which are being adopted in some areas. Specialized courts it seem to me are both good and potentially dangerous from the standpoint that we really focus in an issue or segment of the population in an effective way but the downside potentially is that we treat people differently in the criminal justice system so pretty soon have too many specialized courts. Are there any comments on that?

Alan Dohrmann: In NDVA has been working toward veterans courts and something they call paper veterans courts where they use existing processes and procedures to make sure that veterans are properly diagnosed if there is a connection with a behavioral health condition and their criminal conduct that they look at ways to help that person out to rehabilitate and if they don't need to go to prison to get well instead of sending him to prison. It is a matter of resources. If you happen to get a former JAG criminal defense attorney that understands these issues that our veterans are dealing with; then all of this is going to happen. They will force it to happen. My concern is a veteran not owning up to their challenges and their counsel is just trying to get them through the system as quickly as possible and get them back on the street. It might not be diagnosed that this veteran has a problem. This bill is just a tool and if we work with our court, law enforcement and correction personnel to make sure they understand the issues we can insure the veterans are treated fairly in the system. I don't have the expertise or resources to do this for everyone.

Lonnie Wangen, Commissioner of Veterans Affairs for ND: When that incident happened that Alan Dohrmann talked about I had planned to bring a bill to legislation right after that for veterans court and I was contacted by the Supreme Court and they said come and talk to us; let's get working on something and we did come up with a system that does work and Alan Dohrmann is correct we do need tools in that tool box to make this work a lot better. The word veteran's court needs one more word. It is treatment court. When I talk to a prosecutor that is reluctant to jump on board and is not educated on TPSD or what we have to offer for our veterans I like to say we as a government enlisted these people from ND who were raised as good Christians we tell them to treat people well. Killing somebody is very bad; we don't do that here and then we send them off to the military and they are instructed to kill and come back changed. PTSD is the biggest problem and veterans feel they are weak because the soldiers creed is to be mentally and physically tough. So they consider themselves as weak and that is not the case. It is a chemical imbalance in your body much like you can't turn down your kidney functions in a day you cannot turn down the adrenaline ready to go at all times. This bill can be changed and amended so that it is a better bill. We broke these veterans and we want to try and fix them. We have never required the diagnosis because there are many that haven't been diagnosed. That is the problem that they haven't gone in and got the help. Domestic violence is one of the first signs. The only thing we left out was any sexual assaults. We are not going to bring them into a veteran's court and work with them. We are trying to get a treatment court. A lot of

ladies don't consider themselves veterans and they served in Vietnam as nurses and saw lots of traumatic things. It does not have to be in a battle field. So we just ask if they have the military trauma. We work with their counselors. We end up following that veteran through a treatment plan and at the end we want to get them from entering that revolving door of the criminal justice system. If they plead guilty then they get the treatment and they can come back down the road and have their record expunged because they have become a better citizen again. We would love to have something in the law.

Rep. Mary Johnson: Because the criminal process is lengthily service members who are represented by defense counsel will have the opportunity before this to be diagnosed? So within the whole criminal process from arrest to sentencing there will be time for defendants to be diagnosed before the sentencing phase. This doesn't mean a pre-arrest diagnosis. It can be a post arrest diagnosis.

Lonnie Wangen: Yes that is the idea here. We need to show they are suffering from some kind of PTSD. We don't want the system to be abused. We normally have them meet with the counselors if they have them in there and then it is pretty obvious that this is the best interest of the veteran.

Rep. L. Klemin: It seems like the word service connected should be in here. A lot of the TBI situations that I am aware of arrive out of motor vehicle accidents. If I am a veteran 45 years ago and I have a motorcycle accident and have TBI since I was not wearing a helmet is the clerk required to go through all this treatment option just because I was a veteran even the guy is not service connected?

Lonnie Wangen: The idea is to help those veterans due to their military service we caused them to have these problems and issues so if it is unrelated then I would have to agree with you they probably would not fall under the veteran's law. TBI are what they are coming back with more and more. If you are a Vietnam and you are having problems now; a lot of Vietnam vets are having problems now because of the current war. They are realizing that they have help out there for PTSD.

Rep. Mary Johnson: TBI from a person not wearing a helmet is indicative of the aggressive behavior exhibited by PTSD. I had a brother in law who suffered greatly from PTSD. Discussed his story and said that I am not so sure we should limit the behavioral health condition by calling it service related. I fear that they will be miss diagnosed.

Lonnie Wangen: Those are good points. My counterpart in Oregon the last summer when we had a conference together said they have a couple of counties where they take their time investigating veterans with motorcycle deaths because it is basically a suicide or it is that adrenal rush that they are getting too. Yes that is something that would have been service connected.

Rep. K. Wallman: You mentioned North Dakota has the highest number of people joining the military.

Lonnie Wangen: Yes I did say that.

Rep. K. Wallman: What percentage of our veterans returning to ND suffers from PTSD or TBI?

Lonnie Wangen: We don't know who all is actually suffering. We are looking into that. PTSD usually takes anywhere from three months to three years before it usually becomes a disorder. We figure the national average is close to 50% because of the multiple deployments most of them have gone on. Just because you have PTSD does not mean you are a risk for your own life or family or friends. It can be treated and there are different levels and degrees of it. A lot of these veterans don't get treatment and diagnosis because they are afraid they will lose their weapons for hunting. The VA will report this to Homeland Security and I will not be able to get on a plane. There are a lot of fears of the unknown out there.

Rep. Brabandt: How long does it take a professional to diagnose behavioral health conditions?

Lonnie Wangen: That depends on the veteran themselves. In many cases it has just taken weeks to get them into some of these professionals.

Rep. Brabandt: So it could take six months?

Lonnie Wangen: I cannot answer that. I would prefer our mental health experts answer that.

Les Tomanek, Director, ND Parole and Prohibition and ND Dept. of Corrections and Rehabilitation: (See Testimony #2)

Lisa Peterson, PhD, Clinical Director ND Dept. of Corrections & Rehab. (See Testimony #3) (50:00)

Rep. Maragos: In the statistics you were giving regarding the portion that we members of the military or former members of the military were you able to tell which ones served in combat or noncombat?

Lisa Peterson: We have not. (mike not on).

Rep. L. Klemin: On line 9 that you had focused on the prerequisites' that you are a veteran and two has been diagnosed. What would you suggest for some additional language so maybe a person that has been diagnosed might be one thing; but hasn't yet been diagnosed but there is some evidence to show that person might have this problem? Is that what you are suggesting?

Lisa Peterson: (mike not on).

Rep. G. Paur: In the beginning of your testimony also said we should change mental illness to be behavior health conditions but the USD VA calls this the mental health problem. Should it not be the same for language?

Lisa Peterson: I think that might be what we have done in the past. (mike not on) My goal is to include people because the group is so large.

Chairman K.Koppelman: Is it accurate to say that behavioral health condition versus mental illness is not simply a term of art or a politically correct version of the term but it is different that mental health conditions includes all those clental diagnosable disorders whereas behavioral health includes substance abuse. Is that correct?

Lisa Peterson: Yes

Rep. K. Wallman: If there is a former service member who are arrested for driving under the influence of alcohol would that be where the court would say you previously served, this could be an indication of something that is going to elevate to a different level so if this person doesn't already have a diagnosis let make an opportunity in this bill for evaluation and a diagnosis and treatment plan. You have seen better results with those early level offenders. There is a ranking system in place and if this person ranks at this level we have seen better outcomes for them not to be incarcerated. Is that what you are saying?

Lisa Peterson: (mike not working).

Rep. Maragos: (mike not on).

Alan Dohrmann: (mike not on)

Rep. L. Klemin: Is currently serving or has served in the armed forces of the US; that would include the ND National Guard?

Alan Dohrmann: Yes

Rep. L. Klemin: Now you have just added something else. Has been mobilized etc. because we may have people in the National Guard who have served 6 years in the National Guard without having been mobilized, would they be included in this?

Alan Dohrmann: Yes they would.

Rep. L. Klemin: There are people in the National Guard who are not officially veterans because of the way that term is defined in other statues?

Alan Dohrmann: Yes sir.

Chairman K.Koppelman: In regard to the term service connected what are your thoughts on what Rep. Mary Johnson comments etc. How do you determine what is and isn't service connected.

Alan Dohrmann: (mike not on)

Pamela Sagness: ND, DHS: (mike not on) Passed out a booklet (Handout #4)

Chairman K.Koppelman: Is the term behavioral health condition defined anywhere else in code?

Pamela Sagness: It needs to be updated. (mike not on).

Chairman K.Koppelman: This is an example of a bill that on the surface seems simple and then things come up. This bill will probably need to be amended so anyone can present them to committee members.

Opposition: None

Hearing closed.

2015 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1106
1/13/2015
21927

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to sentencing of current and former members of the military.

Minutes:

Proposed amendment #1

Chairman K.Koppelman opened the meeting on HB 1106.

Rep. Maragos: (Proposed amendment #1) If we approve the proposed amendments the bill will read: In section 1; when a defendant appears in criminal court and has sped or is found guilty of a crime the court shall inquire whether the defendant is currently serving or has served in the armed forces of the US. If the defendant is currently serving or has served in the armed forces of the US and there is reason to believe there is a behavioral health condition the court may.

So those are the changes and that is how the bill will read if we pass these amendments.

Chairman K.Koppelman: It looks like the word plead is there; not the word pled and I believe it doesn't have an a and I believe plead doesn't have an a.

Rep. Maragos: Legislative Counsel has spelled it plead.

Chairman K.Koppelman: I think it is a typing mistake. The Intern checked with Legislative Counsel to get this correct. I have seen those terms used interchangeably before. So the substantive change here is that the conviction requirement. Who would be the one that decides that there is reason to believe?

Rep. Maragos: Most likely defense counsel.

Chairman K.Koppelman: What is the reason for the last part of the amendment versus a diagnosis?

Rep. Maragos: I think the statement is broad enough to make for sure nobody falls through the cracks at least in the possible diagnosis.

Chairman K.Koppelman: You worked with General Dohrmann?

Rep. Maragos: Yes. He sent me the changes and I took them up to Legislative Counsel and got them done.

Chairman K.Koppelman: Our intern said it is the word pled without the a so we will change that.

Motion made to adopt the proposed amendment by Rep. Maragos; Seconded by Rep. D. Larson

Discussion:

Rep. G. Paur: As I understand changing mental illness to behavioral health condition was an effort to include substance abuse.

Chairman K.Koppelman: I believe that is correct.

Rep. G. Paur: PTSD according to the Dept. of Veterans Affairs their term for that is mental problem.

Chairman K.Koppelman: Rep. G. Paur it could include some of the substance abusers as well.

Voice vote passed amendment.

Rep. Maragos Made a Do Pass As Amended; Seconded by Rep. K. Wallman:

Vote: 9 Yes 0 No 4 Absent Carrier: Rep. Maragos

January 13, 2015

8/13/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1106

Page 1, line 6, replace "is convicted" with "has pled or is found guilty"

Page 1, line 9, remove "has been diagnosed as having a mental illness by a"

Page 1, line 10, replace "qualified psychiatrist or clinical psychologist or physician" with "there is reason to believe there is a behavioral health condition"

Renumber accordingly

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1106**

House JUDICIARY Committee

Subcommittee Conference Committee

Amendment LC# or Description: 15.8032.01002.02000

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Other Actions: Reconsider _____

Motion Made By Rep. Maragos Seconded By Rep. D. Larson:

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

*VOICE
VOTE
PASSED*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1106**

House JUDICIARY Committee

Subcommittee Conference Committee

Amendment LC# or Description: 15.8032.01002.02000

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Other Actions: Reconsider _____

Motion Made By Rep. Maragos Seconded By Rep. K. Wallman

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	X		Rep. Pamela Anderson	X	
Vice Chairman Karls	X		Rep. Delmore	---	
Rep. Brabandt	X		Rep. K. Wallman	X	
Rep. Hawken	---				
Rep. Mary Johnson	---				
Rep. Klemin	---				
Rep. Kretschmar	X				
Rep. D. Larson	X				
Rep. Maragos	X				
Rep. Paur	X				

Total (Yes) 9 No 0

Absent 4

Floor Assignment Rep. Maragos

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1106: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). HB 1106 was placed on the Sixth order on the calendar.

Page 1, line 6, replace "is convicted" with "has pled or is found guilty"

Page 1, line 9, remove "has been diagnosed as having a mental illness by a"

Page 1, line 10, replace "qualified psychiatrist or clinical psychologist or physician" with "there is reason to believe there is a behavioral health condition"

Renumber accordingly

2015 SENATE JUDICIARY

HB 1106

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1106
3/4/2015
24292

- Subcommittee
 Conference Committee

Committee Clerk Signature

D. Fenrose

Minutes:

1,2,3

Ch. Hogue: We will open the hearing on HB 1106.

Brigadier General Alan Dohrmann, Deputy Adjutant General: Support (see attached 1).

Sen. Armstrong: On lines 6-7 of the bill, it says in any court found guilty of any crime shall inquire. But in misdemeanor crimes, they are done on paper plea, rule 43 waiver of appearance and plea agreement. A DUI, drug possession, those types of charges. The second part redirects to DOCR and DOCR is not involved in misdemeanor crimes, I get the felony counts in part of the pre-sentence investigation, but I don't know how this would be workable for misdemeanor crimes.

Alan Dohrmann: On a misdemeanor crime I think it goes back to the education piece; if defense counsel has inquired of their client whether they have been in military service and get some background on potential impacts between the two, I think the issue could be raised at that point. I understand in a paper plea where the defendant may not be there, it would be more difficult for the judge to take that into consideration.

Sen. Armstrong: In general, that's my point. I don't know if you could continue to do paper pleas the way we do them now if this passed. This is directive language, the court shall inquire. My concern is for "disorderly conduct", a minor crime that happens at 1:30 am in a bar parking lot. This language is "any crime shall make a determination". I don't know how you could do that for that type of crime under our current system.

Alan Dohrmann: We could look into that some more. Again, this is not prescriptive, it just requires that there be an inquiry and whether that could be done through the documents that already assist for those Rule 43 pleas so that the information is at least part of that agreement and it comes to the attention of the Judge. Then, I think depending on the facts of the case, we could look at alternatives to sentencing. If most of those cases, in my experience, a lot of them are alcohol related or petty crimes. If they are alcohol related, again, our hope would be that there is a conversation between defense counsel and the court. I don't think there would be many rule 43's on a pro se defendant. But at least there would be a conversation between defense counsel and the defendant about whether there are any issues with the military service related to the criminal conduct and that could be incorporated into the rule 43.

Ch. Hogue: You mentioned in your testimony that some states are looking at the veteran court concept. I know we had a bill where the Supreme Court asked us to create a committee, among other things they wanted to study the creation of those courts. The Uniform Law Commission is going to study veteran's courts. Are you aware of what level of participation that either the National Guard Bureau or active duty forces, may have in the studies or ongoing administrative processes.

Alan Dohrmann: On the model code, I'm not aware whether there has been any conversation with either the active component of the Guard Bureau as far as participation. In regard to Supreme Court's chief justice effort on SB 2161, looking at interdisciplinary committee on problem solving courts. We have talked to the chief justice about that and, in our conversation with him I think we would be a partner in that process. Going forward, a number of states have looked at veterans courts. In this bill, the language is modeled after what was done in MN; in MN they tried to go for more of a full-fledged veteran's court, like a problem solving drug court, type set up. They weren't able to get there and they ended up with this. In a number of states, including Illinois, NH, IA, KS, TX and WI have followed that lead. We see this as a good first step but we are very interested in teaming with the supreme court and the other stakeholders in this process looking at a potential problem solving court is that's appropriate for ND.

Sen. Luick: Approx. right now across the state, what are the statistics, the numbers?

Alan Dohrmann: I think our numbers bear out on the national level, where it is about 20% for both PTSD and mild TBI.

Sen. Armstrong: I have had a couple of cases where my clients have had some pretty severe PTSD. Has there been any discussion about how we qualify PTSD in its relation with criminal culpability, like what you were talking about, in the more sensational cases. I have run into issues with the criminal standard for culpability vs. the Human Services standard for mental defect are very different. It seems like PTSD is a very different type of mental disorder than even the other ones that are easily raised for defendants and it causes a lot of problems when you go through the criminal court for especially serious crimes.

Alan Dohrmann: There are people from DOCR and Dept of Human Services that may be able to answer that question; the clinical definition vs. the criminal culpability. I want to stress that this isn't a get out of jail free card. PTSD is not an excuse for bad behavior but it might be a mitigating factor where we can look at alternatives and if alcohol is a contributing factor, sometimes just getting them off that and on the right course gets them on the path they need to be on.

Sen. Armstrong: In your testimony, the self-medication part of it sure seems to come up a lot, especially with Vietnam Vets, is where I have seen the most of it.

Alan Dohrmann: Absolutely, there have been studies done post-Vietnam; there was a spike in criminal behavior amongst veterans. In post-Vietnam, we didn't do much to help those veterans out and that is partly the reason why we want to get ahead of the problem now.

Ch. Hogue: How many veterans are living in ND that served either in Iraq or Afghanistan, anywhere in the global war on terror?

Alan Dohrmann: The numbers of National Guardsmen that have been deployed are in the thousands but a lot of those have deployed more than once, and that is another contributing factor to PTSD, plus the active duty veterans, I don't think we have great records on how many are in the state. As you are aware we have the highest per capita rate of service in the military.

Ch. Hogue: What is the guard number?

Alan Dohrmann: Veterans in North Dakota, 56,770; 11% of the population. Deployments since 9/11 were 10,095. Of those, about 3,000 are National Guard.

Ch. Hogue: Thank you. Further testimony in support.

Pam Sagness, Substance Abuse Lead, Dept. of Human Services: Support (see attached 2). The data booklet was put together through the ND Cares Initiative, which is chaired by Betsy Dalrymple. It has collaborative data from many sources. Page 1 has the demographics that were discussed; some of the information is specific to behavioral health. On page 1 and 2 we have general demographics. It also covers employment and housing specific to military members. On page 5 and 6 you can see those that are seeking behavioral health services. They receive services through the VA or the ND Human Service Centers. We don't have the number of service members that are seeking services through the private sector. You can see that, on average, about 800 service members that are receiving services through our public system and those are the regional human service centers. On page 7 and 8, you will see where it talks about the number of returning veterans relating to both TBI (traumatic brain injury) and suicide; another mental health condition. The term behavioral health is the global term that encompasses both mental health and substance abuse.

Ch. Hogue: On page 8 of the booklet, it has a bar graph, percentage of suicides committed by veterans in ND. It varies from 29% down to 15.9%. What is that percentage?

P. Sagness: That is the percentage of suicides. Not the percentage of members. Of the suicides that occur in the state, that's the percentage that would have some type of service.

Ch. Hogue: So it's not a percentage of the number of service members who have attempted it, it's the percentage of all suicides attempted in ND, how many of them were veterans or had a military service background.

P. Sagness: Yes.

Ch. Hogue: Thank you. Further testimony in support.

Lisa Peterson, Clinical Director, DOCR: Support (see attached 3). I reference substance abuse disorders and mental illness in my written

testimony but they both fall under that umbrella of behavioral health which is referenced in the bill. Most of my testimony applies to situations where the crime would potentially carry a term of incarceration, mainly felonies when I talk about the rest of the data in my testimony.

Sen. Armstrong: On current felony pre-sentence investigations, the way they are conducted now, doesn't most of this information come out.

Lisa Peterson: I believe it would. I don't know necessarily that the PSI writers are required to ask; they do ask about prior military service history, so it would be included. I think the issue is more that they are not necessarily ordered all the time.

Sen. Armstrong: Are they comfortable doing pre-sentence investigations on misdemeanor cases. Has anyone looked into that part of this, because that would be a big change?

Lisa Peterson: We talked about this bill on the House side, our director of Field Services was here; he did talk about wanting to stay away from PSI's for misdemeanors. That would be a significant change in the workload of those who write the PSI's. Focusing on felonies, he did not think would have a fiscal impact or result in a big workload change.

Sen. Armstrong: If this moves forward as is, somebody better think about doing a fiscal note, if this applies to misdemeanor cases. It really changes how things are done in misdemeanor cases. I don't have a problem with the pre-sentence investigation getting tightened up on the felony side, but in regard to the misdemeanor side it will be interjecting your office into cases you've never been in before.

Ch. Hogue: Can you tell us when you do pre-sentence investigations and just what is a pre-sentence investigation.

Lisa Peterson: Pre-sentence investigations are ordered by the presiding judge. We don't have any input on which cases get PSI's and which ones don't. They are done after someone has been found guilty or adjudicated guilty of a crime, prior to sentence. It is usually completed within a 30 day period. Most of the time, they are based around that level of service inventory revised interview that I talked about earlier, the actuarial tool, that looks at what risk factors are present for that person in terms of future crime, including the behavioral health factors. Sometimes they include an evaluation by a

psychologist but not always. For sex offenses specifically, if the sender is in the moderate risk or higher categories on the sex offense specific actuarial tools, they then are required to ask for an evaluation by a psychologist. The PSI writer, which is a staff of our department, will ask for the evaluation. Usually the psychological evaluations are done by the Dept of Human Services. Sometimes my staff will do them if the person is already incarcerated on a different offense and is pending sentencing, and then we will do the psychological evaluation piece. They don't always include a meeting with an actual behavioral health professional. A lot of times, they will include a substance abuse evaluation, so in that case the licensed addiction counselor would see the person as well. Mainly it consists of a PSI writer who is staff of Parole and Probation completely that LSI.

Ch. Hogue: What information does the report contain? Does it contain demographics, biographical, is that is what is included in the test.

Lisa Peterson: Yes, that's correct.

Ch. Hogue: So they would look into the defendant's, where they grew up, what their occupation is, marital status; all those items.

Lisa Peterson: Yes. It's the family history, criminal history, history of substance abuse, etc.

Ch. Hogue: Thank you. Further testimony in support.

Alan Dohrmann: In regard to the misdemeanor issue. I would be happy to work with the committee if changes need to be made. This is not prescriptive; on line 10 of the bill it says "if there is a behavioral health condition, the court may". As a matter of policy, the judicial branch could put policy in place that on misdemeanors there may be another approach to this, where it would not require that a full PSI be conducted by the DOCR but the defendant may be able to bring forward his own evidence for maybe interaction with helping Human Services or VA, a diagnosis of PTSD and talk about the connection between the two. In cases like that, where it's a misdemeanor, such as a DUI or disorderly conduct involving alcohol, I think an educated defense bar, which ND Veterans Affairs is working on educating the defense bar and everyone else that's involved with this process. We could still get that person to a treatment situation either in ND or at the VA in St. Cloud, without actually requiring that a full PSI be conducted by the DOCR.

Sen. Armstrong: The substance abuse crimes, like possession of marijuana, DUI, we already require addiction evaluation as part of sentencing. The difference between misdemeanors and felonies I think, is you go into court, if you go to court at all, or you file your paperwork, and all that gets done when you are done, is you file a completion of the program and it is partially because those are subcontracted out to the private substance abuse counselors or semi-private substance abuse counselor. I think the difference is in how a misdemeanor gets more difficult as to how you interject people into the process because it all happens after the fact. None of these cases carry supervised probation or very rarely do, which is the difference between a misdemeanor and a felony. How would we interject this kind of action into a misdemeanor case any different than is being done now? Do we have to educate the private substance abuse counselors to do this because no one follows up except to get the substance abuse report turned in to the court; the court doesn't look at it, they just check to see if it has been completed. That's not just for veterans; it's for anybody who is required to have one. I don't know what the next step would be in a misdemeanor case, and that's my question.

Alan Dohrmann: We're looking at a positive first step and I think without establishing a veterans court much like the drug courts we have had, that aren't just going to look at felonies, they are going to look at misdemeanors and especially if someone appears more than once. This bill will not probably catch every veteran behavioral health issue. But as we know, if you come into contact with the court system, once for an alcohol related offense, it may be given very little scrutiny, possibly a rule 43 written plea agreement if they had defense counsel. They do the evaluation and submit it to the court and that might be the end of their exposure to the court. If they come back a second time, there is going to be an increase in attention given to that individual. As far as the education piece, we recognize ND Veterans Administration recognizes that there is more that we can do in the way of education. NDVA has been working with all the folks you mentioned, as far as educating them on the issues with veterans behavioral health issues. We need to continue that effort, and we would be happy to cooperate with the Supreme Court in a disciplinary committee on courts and all the other stakeholders to see what else we can do to get out ahead of this problem.

Sen. Luick: In your best estimation across the country, the programs that are going on today, how effective are they. How are we getting ahead of this? Where are we at with trying to help those problems you are talking about?

Alan Dohrmann: I don't have statistics. Anecdotally, I have seen successes with the folks we have in the National Guard. There are continuing struggles for these veterans. As you know, when it comes to substance abuse, sometimes the fix doesn't happen the first time. The person needs to want to get better, and sometimes coming into contact with the criminal justice system will tip that person. Sometimes they do what they can to get through the process; once they are not being monitored closely they can relapse. But there has been some success; in the National Guard I've seen many soldiers who have struggled with the issues and turned their lives around. But they need to realize that they need help. We need to get them the help and then they have to stick with it.

Ch. Hogue: Thank you. Further testimony in support.

Brenda Bergsrud, ND Dept of Veterans Affairs, Women and Minority Veterans Coordinator for the state of ND: Support. We have had some very successful cases in the last couple of years working with the courts on some situations with military and veterans. We have a couple of judges who will phone our department when there is a situation with a veteran and ask that we work through the system. The VA actually has a criminal justice officer, but they are not able to get involved, the federal VA until after the veteran or criminal has been sentenced. Therefore, our department can come in prior to or during that process and assist. In the cases that I have personally worked on, it's been a case where the judge said I'm going to have to send them to jail or can you set up something where they can go to treatment. So we end up working with the VA and possibly sending them to St. Cloud for intense PTSD treatment and that's been very successful. If they don't complete it then they come back and go to jail. We've been able to work with the system that way. Veteran's courts originally started in New York with a judge and she saw repeat offenders who were veterans and rather than continuously sending them to the corrections department, she started a veteran court; it flourished. From there it went to Florida and now it's been pretty common nationwide and they are effective.

Ch. Hogue: Are you familiar with our drug courts.

B. Bergsrud: No I am not.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. We will close the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1106
3/23/2015
25291

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

1

Ch. Hogue: Let's take a look at HB 1106. Sen. Armstrong, go ahead and explain your amendments.

Sen. Armstrong: Explained the amendment (see attached #1). I think that 1106, as it is currently written, does a lot of different things that I'm not sure if everybody's even aware that they do. It completely changes the way you do Rule 43 criminal practice for every practitioner in ND. This changes it for every defendant not just veterans because of the way the language is written. I don't know when the rules committee meets, but until they did meet and if this law passed, until the rules committee met, and fixed Rule 43, Rule 43s would no longer be allowed. Because once you change a law you have to change the rules. Rule 43 is a criminal rule of procedure. It allows for a paper pleading. In speaking to some veterans who are also involved in the court system, one of the big questions that came up regarding this bill is that it is at the wrong period of time in the criminal case. Why are you waiting until sentencing to do this? You should be doing it earlier on in the process when a veteran is arrested or is bonded out of jail. If there are veteran's services available and that veteran is in need of veteran's services that should be happening before the criminal's case and the sentencing portion of it. I don't like when we change criminal rules without having buy in from judges, prosecutors and the lawyers involved in this system. DOCR testified in favor of this and then I talked to some DOCR people and I'm like, you could be doing pre-sentence investigations on a lot more misdemeanors and I don't understand how this doesn't have an appropriate to it. They are not entirely in favor of expanding pretrial sentence investigations to misdemeanors. I drafted up a study resolution to look at this issue as it relates to veterans and whether it is needed in misdemeanors, whether it should be done at the pendency of the proceeding. We also passed a pilot pre-trial services program that is over

on the other side. We passed it in the Senate and I don't know what they might have done on the House side. But on specialty courts, we have a lot of this going on, but essentially my argument to this is very similar to the argument on the doctors and the lawyer's thing. This is something we should be doing for everybody or nobody. When you're in the criminal system and you're dealing with it as an issue for that, I don't think you should change the way you do a criminal case simply by who the person is. That's not what the crime is, that's never what crime is. Crime should be on the act committed, sentencing should be based on the act committed. The mitigating factor of being a veteran would be one of many different mitigating factors. I don't like the bill as written; if this is a serious issue and we have that availability, they should be taken into account. One of the things that I think are interesting, is if you have access to VA services, can those replace the services that we talked about earlier such as domestic violence protection program that we subcontract out to third party vendors all the time; whether it's substance abuse counseling, etc. We've managed very well over the last many years to subcontract a lot of parts of criminal punishment and parts of this study would consist of: finding out if you could use the VA services if you are a veteran and could substitute the ones that we currently require in statute for VA treatment and things of that nature which would be more specific to a veteran. The study would look at it in a broader scope and see where the best place to put it in is; how you would apply it to misdemeanors vs. felonies, etc. That's what the study does.

Ch. Hogue: The bill talks about current and former members of the military. If you are a current member of the military and if you are active duty, like most of our population are, either at Minot Air Force base, the Grand Forks Air Force base, they are subject to what's called the Uniform Code of Military Justice.

Some National Guard members are what is called Title 10; on active duty. Some of them are called technicians, which mean they wear the uniform but they are considered civilians Monday through Friday. On the weekend they are guardsmen, but those folks are all subject to the Uniform Code of Military Justice. This doesn't have any bearing on them. This would primarily be for retirees that live here and members of the National Guard who are not on a Title 10 status. I have the same concern that Sen. Armstrong has. We do have a lot of things that we will do for veterans, in terms of preferences, we just passed one that will give them the ability to get a preference to be interviewed for an educational position. We have a lot of VA benefits, but when it comes to the criminal code, I am just not willing to say that we should start treating them differently. It's a line that I don't think we should cross, not

only because they have their code already for active duty folks, but because the way the bill was written, you're changing criminal procedure for everybody else to try to accommodate the few that are going to come before you as veterans.

Sen. Armstrong: This might not always be to their benefit. If it is an inquiry to that, if I have a veteran who has a little drinking problem and he gets a disorderly conduct and wants the same thing that all my other clients that get a disorderly conduct want, they want to come into my office, sign a piece of paperwork, and want a six month deferred imposition of sentence. Well, that's how every other criminal case is treated, but now, there is another standard that the court could impose on him just by the fact that he's a veteran. Maybe the veteran services people want it, maybe the VA wants it, but that doesn't mean the defendant wants it. At the end of the day, those services and availability of those services are incredibly important to our veterans but I'm not necessarily sure that we should be forcing it on them in the criminal code and codifying it. I would also say that these kind of mitigating factors are already taken into consideration, they are just not codified. I've represented numerous veterans before and I would tell you, from my personal experience, judges are just like we are. They will bend over backwards if they can do something specific to help a veteran, especially in the criminal code, if they can relate to some of the problems being associated with this military service. I don't think this is being done in the right spot in Code. I think it is the wrong time to do it at sentencing. I think without more data and more information it is very difficult to implement it at an earlier stage without getting information from the rest of the players in the criminal justice system.

Sen. Grabinger: In the major cases they are already taking this in to consideration anyway. So all we're really looking at is on the misdemeanor cases. This will just add more to it. If it was a felony conviction, they are already going to do that on a pre-sentence investigation anyway; they're going to take into consideration any veteran issues already.

Sen. Armstrong: There are a lot of felonies where pre-sentence investigations aren't ordered too. This would just create a different bar for veterans in the criminal justice system. It's not only to their benefit. Its intent is to be to their benefit, but if I have an out-of-state veteran that's sitting in custody trying to get home to Wyoming, and the prosecutor of the state and the defense attorney agree that he's going to get some kind of deferred imposition and he's going to go on supervised probation of a felony in his home state. This thing gets bogged down because they want to do a veteran's pre-sentence

investigation. It's admirable that they want to do it, that the VA wants to get involved in the proceeding. I don't disagree with any of those reasons, it still might not be the best thing for the defendant, and he might not want that. You're setting a bar different for the veteran criminal defendant than you are for someone else. They might not always like it. The criminal code should be a code of general application; it shouldn't be if you are rich, poor, black or white, shouldn't be for a veteran, school teacher, doctor, or nurse. Everyone in the code should be treated the same. It would be nice if we could do this stuff for anybody with any serious mental issues. If there are specific services available to them that can help the court to determine an outcome, I think that is a great thing. I just think it should occur much earlier in the criminal process than at sentencing. The one thing at sentencing you can't do is change it from a felony to a misdemeanor or reduce it or anything. At sentencing you're already pled.

Ch. Hogue: The committee's wishes.

Sen. Luick: I'm thinking that the wishes of this amendment would be to just turn this into a study.

Ch. Hogue: Yes.

Sen. Casper: I move the amendments.

Sen. Luick: Second the motion.

Ch. Hogue: We will take a voice vote. Motion carried. We now have the bill before us as amended.

Sen. Casper: I move a Do Pass as Amended.

Sen. Grabinger: Second the motion.

5 YES 0 NO 1 ABSENT

DO PASS AS AMENDED

CARRIER: Sen. Armstrong

March 18, 2015

7D
3/23/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1106

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of issues relating to criminal defendants who are veterans or who are currently serving in the armed forces."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. CRIMINAL JUSTICE ISSUES RELATING TO DEFENDANTS WHO ARE VETERANS OR SERVING IN ARMED FORCES - LEGISLATIVE MANAGEMENT STUDY.

1. The legislative management shall consider studying, during the 2015-16 interim, issues related to criminal defendants who are veterans or who are currently serving in the armed forces, including:
 - a. Whether additional treatment and sentencing options should be considered if a defendant is suspected to have posttraumatic stress disorder or other behavioral health conditions;
 - b. Whether the additional treatment and sentencing options should apply to both misdemeanor and felony offenses and, if applied to misdemeanor offenses, the impact those additional cases would have on the courts and the department of corrections and rehabilitation;
 - c. The point in the criminal proceeding at which the inquiry regarding the defendant's behavioral health condition should be made; and
 - d. What steps the state needs to take to ensure that veterans and other armed forces personnel with posttraumatic stress disorder or other behavioral health conditions are best handled in the state's criminal justice system.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

Date: 3/23/15
Voice Vote # 1

2015 SENATE STANDING COMMITTEE
VOICE VOTE
BILL/RESOLUTION NO. 1106

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: 15.8032.02001 03000

Recommendation: Adopt Amendment

Do Pass Do Not Pass Without Committee Recommendation

As Amended Rerefer to Appropriations

Place on Consent Calendar

Other Actions: Reconsider _____

Seconded By

Motion Made By Sen. Casper Sen. Luick

Senators	Yes	No	Senators	Yes	No
Ch. Hogue			Sen. Grabinger		
Sen. Armstrong			Sen. C. Nelson		
Sen. Casper					
Sen. Luick					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice: Carried

Date: 3/23/15

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 1106

Senate JUDICIARY Committee

Subcommittee

Amendment LC# or Description: 15.8032.02001 03000

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Casper Seconded By Sen. Grabinger

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson		Absent
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Sen. Armstrong

REPORT OF STANDING COMMITTEE

HB 1106, as engrossed: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1106 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of issues relating to criminal defendants who are veterans or who are currently serving in the armed forces.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. CRIMINAL JUSTICE ISSUES RELATING TO DEFENDANTS WHO ARE VETERANS OR SERVING IN ARMED FORCES - LEGISLATIVE MANAGEMENT STUDY.

1. The legislative management shall consider studying, during the 2015-16 interim, issues related to criminal defendants who are veterans or who are currently serving in the armed forces, including:
 - a. Whether additional treatment and sentencing options should be considered if a defendant is suspected to have posttraumatic stress disorder or other behavioral health conditions;
 - b. Whether the additional treatment and sentencing options should apply to both misdemeanor and felony offenses and, if applied to misdemeanor offenses, the impact those additional cases would have on the courts and the department of corrections and rehabilitation;
 - c. The point in the criminal proceeding at which the inquiry regarding the defendant's behavioral health condition should be made; and
 - d. What steps the state needs to take to ensure that veterans and other armed forces personnel with posttraumatic stress disorder or other behavioral health conditions are best handled in the state's criminal justice system.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

2015 CONFERENCE COMMITTEE

HB 1106

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1106
4/13/2015
26059

Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to sentencing of current and former members of the military.

Minutes:

Rep. G. Paur: (Chair): Opened the conference committee meeting on HB 1106. All members were present.

Senator Armstrong: The beautiful bill in order to determine veteran's status you would have changed on misdemeanors and also felonies criminal law for every other defendant in the court system. The reason is the court shall inquiry as to veteran status. A lot of misdemeanor cases are done on paper pleading. It is called what is criminal rule of procedure 43. If this passed our current rule 43 would become obsolete because one of the things the judges have to do before they can take a plea if this bill passes would be to inquiry as to veterans status. Our current rule 43 doesn't do this on paper pleading... This would be only based on being a veteran. I don't think DOCR understood the bill. This would be the only place in criminal code that you deviate based on somebody's status; not on conduct. The Senate committee was uncomfortable going down that road because we had testimony from DOCR, which I don't think they truly understood this bill because this could get them much more involved in misdemeanors than they are now. When you get into the criminal code everybody should be treated the same. The reason we didn't say this was not a policy we wanted to go down was because veterans who suffer from veterans related effects like PTSD have different treatment needs necessarily than normal defendants; which we are comfortable with. If you would have addressed if before sentencing it would have been done prior to sentencing. Once you are sentenced you are already convicted of what it is. We turned it into a study because we have a lot of mandated treatment in our criminal code; whether it is alcohol or domestic violence, anger management; substance abuse we have all of those things. We thought it would be worth looking at is if you have a veteran who is pleading guilty to a DUI; do they have to do the state ordered addiction evaluation or should they be able to substitute that addiction evaluation and treatment with some VA treatment? Let's let the judge after sentencing check into his veteran status and he may be called in. The bill wanted to interject in these small cases before things get out of hand.

Rep. Maragos: Based on your comment about earlier in the process; would it be proper to mandate the prosecutor to take that into effect and somehow bring that into the court proceeding?

Senator Armstrong: I am not sure how proper it is to mandate? It seems to me that they want to trigger things to happen differently for a veteran than they do for other criminal defendants. We did hear testimony they did want more interaction on misdemeanor where DOCR lacked comprehension on how this would work. If you start ordering presentence investigations on a misdemeanor there should be a fiscal note attached to this because that is rare so when you start doing that. That didn't seem to be what the Adjutant General wanted so we did not know that they wanted to do that so we turned it into a study. There are a lot of things that happen in this bill that would happen very different for veterans than it would for other criminal defendants and is that somewhat patronizing to veterans? It is anybody who served where the inquiry gets started.

Rep. Lois Delmore: We talked about both of those things. Shouldn't it apply to everybody and not one single class? Do you see the study tying in with Senate Bill 2161?

Senator Armstrong: Yes. There are a lot of those bills going out there. This is a big shift in policy for the state of ND to start treating any group differently in the criminal code just based on the class?

Rep. G. Paur: We do treat juveniles differently?

Senator Armstrong: Yes we do and that line has been blurred significantly.

Rep. Maragos: The term of setting up a different class? Is there any way we could do that without setting up a different class?

Senator Armstrong: Yes you could open it up to everybody. I don't know what the fiscal note would be. I don't know what DOCR would do because of their lack of resources? This trigger down to misdemeanor's and directing DOCR to do those things; I am not sure we have provided them the proper funding or full time employees nor do we have the will to do that at this point in time given our current budget situation. If I get a veteran who has serious veteran issues I will go to VA and work with them to get treatment. I use the to mitigate the charge or sentence. We felt limiting it after sentencing Rule 43 rule making process would have to be changed.

Rep. Maragos: I am looking at engrossed HB 2001 which is what went over to your committee. Did General Dohrmann come into your committee and testify?

Senator Armstrong: Yes. He attempted for amendments that came back and forth. This is a concept I am not comfortable codifying yet because we didn't have any law enforcement. DOCR testified, but they were around Rep. Delmore's point of this needs to be attacked globally for everybody. We didn't take Dohrmann's proposals and turned it into a study instead.

Rep. G. Paur: It appears most of your objections would be addressed by amendments.

What would be the ultimate (Mike not on)

Senator Hogue: There are some of us that would like to kill the bill altogether. I don't support the concept of having special treatment for veterans in criminal court at all. When you are convicted of a crime whether it is your race, veteran status, and your gender are all irrelevant. I think it is fundamentally wrong. I think a veteran because of veteran status being singled out is wrong. It only applies to individuals who are currently serving in the armed forces? It makes no effort to go flush out the combat veterans that have PTSD or related issues. Does the Senate want to treat veterans differently because of their status of veterans once they have plead guilty to a crime and I would say the answer is no.

Senator Armstrong: We do so many mandated treatment things in the criminal code and the one place I would be comfortable treating the veterans differently is allowing them to get more of their treatment versus the mandated treatment which is why we did the study. I don't think you should have to do an addiction evaluation when you have a DUI if you are doing significant VA treatment. I don't think you have to do both and currently the law only requires one, which would be the regular addiction evaluation treatment.

Rep. Maragos: Do we have a legal definition of a veteran? Should it say military veteran?

Senator Hogue: There are probably half a dozen different definitions of veterans.

Rep. Maragos: Was combat zone ever part of the description?

Senator Hogue: Yes. The money we pay veterans for every month they serve in a combat zone. We pay them \$100/month.

Rep. Maragos: Tessa I would like to do research on everywhere where it says veteran in the code. Can PTSD be used as a defense?

Senator Armstrong: Yes. The defense of lack of capacity in the criminal system is significantly different than the diagnostic. Essentially in the criminal code to over simplify it is if you know right from wrong we don't care how crazy you are or why you are crazy. Yes PTSD can be used as a defense and a mitigating factor. One of the things with Rep. Paur about reducing it to a misdemeanor or only having it apply to felonies; that wasn't really the intent of the testimony we got from the general. They wanted it to apply to misdemeanors and they wanted to try and catch some of this stuff early. With Rep. Maragos; when you are talking about the veterans and the definitions. The problem in the bill is the metric. The metric is you have to check every criminal client. Regardless then it changes how criminal laws apply to every single person in the criminal justice system in order to attach to that metric.

Senator Nelson: In the bill it is after it is plead and it should have been done early on. It should not have been after the guy is found guilty. The whole bill got off to a wrong start with the first line. I think the study would be of help. There are so many different definitions of veterans and there are just so many variations.

Rep. Lois Delmore: I am glad included the look at treatment. I agree with several things Senator Nelson said. It was one of the reasons this bill was brought forward. Maybe we do need the combination of the two bills; one looking at the court system itself and this one looking at what we can do.

Senator Armstrong: I have never seen a court where they did not currently take into consideration.

Rep. Maragos: What was the rationale for codifying what they currently do? You made the statement most courts and prosecutors do take that into consideration in almost every case anyway. Why do we need to put it into the law again?

Rep. G. Paur: Why do we have 1106?

Senator Armstrong: This would require the court to make inquiry they make it on everybody.

Rep. Maragos: That is checking one box on a form?

Senator Armstrong: No because you have to check for every defendant regardless of how they come before the court. There are a lot of things that factor into it.

Adjourned.

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1106
4/14/2015
26085

Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to sentencing of current and former members of the military.

Minutes:

Proposed Amendment #1

Rep. G. Paur (Chairman): Opened the conference committee hearing on HB1106. Roll call taken with all members present.

Senator Armstrong: Looks like the amendment that is offered what is taken by other states for judicial and criminal systems.

Motion made to move the amendment 02002 by Senator Armstrong; Seconded by Senator Nelson that the Senate recedes from its amendments and further amends.

Discussion:

Senator Hogue: I would probably be the only one that votes against it. I don't support the concept of differential treatment for veterans in our criminal courts so I am in opposition to the motion.

Roll Call Vote: 5 Yes 1 No 0 Absent.

Committee adjourned.

April 13, 2015

SK
4/14/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1106

That the Senate recede from its amendments as printed on page 1130 of the House Journal and page 886 of the Senate Journal and that Engrossed House Bill No. 1106 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of issues relating to criminal defendants who are veterans or who are currently serving in the armed forces.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - CRIMINAL JUSTICE ISSUES RELATING TO DEFENDANTS WHO ARE VETERANS OR SERVING IN ARMED FORCES.

1. The legislative management shall consider studying, during the 2015-16 interim, issues related to criminal defendants who are veterans or who are currently serving in the armed forces, including:
 - a. Whether additional treatment and sentencing options should be considered if a defendant is suspected to have posttraumatic stress disorder or other behavioral health conditions;
 - b. Whether the additional treatment and sentencing options should apply to both misdemeanor and felony offenses and, if applied to misdemeanor offenses, the impact those additional cases would have on the courts and the department of corrections and rehabilitation;
 - c. The point in the criminal proceeding at which the inquiry regarding the defendant's behavioral health condition should be made;
 - d. What actions are being taken by other states' judicial and criminal justice systems to address similar issues regarding criminal defendants who are veterans or who are currently serving in the armed forces; and
 - e. What steps the state needs to take to ensure that veterans and other armed forces personnel with posttraumatic stress disorder or other behavioral health conditions are best handled in the state's criminal justice system.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

2015 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES

BILL NO 1106 as engrossed

House Judiciary Committee

- Action Taken
- HOUSE accede to Senate Amendments
 - HOUSE accede to Senate Amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Sen. Armstrong Seconded by: Sen. Nelson

Representatives	4/13	4/14	Yes	No	Senators	4/13	4/14	Yes	No
Rep. G. Paur (Chair)	✓	✓	✓		Senator Armstrong	✓	✓	✓	
Rep. Maragos	✓	✓	✓		Senator Hogue	✓	✓		✓
Rep. Delmore	✓	✓	✓		Senator Carolyn Nelson	✓	✓	✓	
Total Rep. Vote					Total Senate Vote				

Vote Count Yes: 5 No: 1 Absent: 0

House Carrier No Carrier Senate Carrier No Carrier

LC Number 15.8032.02002 of amendment

LC Number 15.8032.02002 . 04000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1106, as engrossed: Your conference committee (Sens. Armstrong, Hogue, Nelson and Reps. Paur, Maragos, Delmore) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1130, adopt amendments as follows, and place HB 1106 on the Seventh order:

That the Senate recede from its amendments as printed on page 1130 of the House Journal and page 886 of the Senate Journal and that Engrossed House Bill No. 1106 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of issues relating to criminal defendants who are veterans or who are currently serving in the armed forces.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - CRIMINAL JUSTICE ISSUES RELATING TO DEFENDANTS WHO ARE VETERANS OR SERVING IN ARMED FORCES.

1. The legislative management shall consider studying, during the 2015-16 interim, issues related to criminal defendants who are veterans or who are currently serving in the armed forces, including:
 - a. Whether additional treatment and sentencing options should be considered if a defendant is suspected to have posttraumatic stress disorder or other behavioral health conditions;
 - b. Whether the additional treatment and sentencing options should apply to both misdemeanor and felony offenses and, if applied to misdemeanor offenses, the impact those additional cases would have on the courts and the department of corrections and rehabilitation;
 - c. The point in the criminal proceeding at which the inquiry regarding the defendant's behavioral health condition should be made;
 - d. What actions are being taken by other states' judicial and criminal justice systems to address similar issues regarding criminal defendants who are veterans or who are currently serving in the armed forces; and
 - e. What steps the state needs to take to ensure that veterans and other armed forces personnel with posttraumatic stress disorder or other behavioral health conditions are best handled in the state's criminal justice system.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

Engrossed HB 1106 was placed on the Seventh order of business on the calendar.

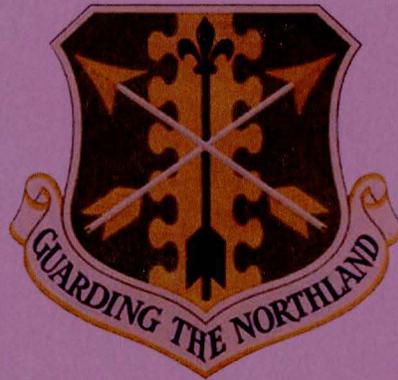
2015 TESTIMONY

HB 1106



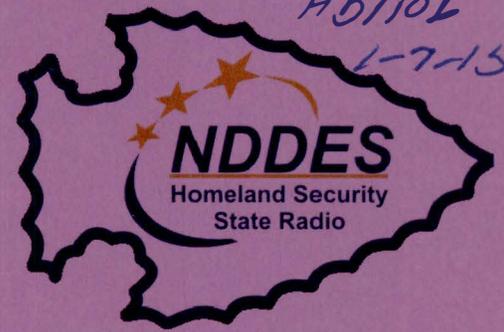
Army National Guard

"The Straight Arrows"



Air National Guard

"The Happy Hooligans"



*Department of
Emergency Services
Homeland Security &
State Radio*

*The
Office of the
Adjutant General*

*Testimony of
Brigadier General Alan Dohrmann
Deputy Adjutant General*

before the

*House Judiciary
Committee
January 7, 2015*

HOUSE BILL 1106

HB 1106
1-7-15
Pg 1

TESTIMONY OF
BRIGADIER GENERAL ALAN S. DOHRMANN
THE DEPUTY ADJUTANT GENERAL
BEFORE THE
JUDICIARY COMMITTEE
7 JANUARY 2015
HOUSE BILL 1106

Good morning Mr. Chairman, members of the committee, I am Brigadier General Alan Dohrmann, The Deputy Adjutant General for the North Dakota National Guard. I am here today to testify in support of House Bill 1106.

After over 13 years of war, we continue to deal with the wounds of war, both visible and invisible, such as Post Traumatic Stress (PTSD) and Traumatic Brain Injury (TBI). According to the Federal Department of Veteran Affairs, up to 20% of veterans who served in OIF or OEF have PTSD. Without assistance many of these service members begin to self medicate with alcohol or drugs, which all too often results in coming into contact with the criminal justice system.

To address the issues our veterans face, several states have established Veteran Courts. The purpose of these courts is to assist veterans struggling with mental health issues by redirecting them off the destructive path they are on with treatment and services. While this Bill does not get us all the way to a Veterans' Court, it helps ensure courts take the impacts of military service into consideration prior to sentencing. This "tool" in each judge's tool-kit will compliment other efforts to address the invisible wounds of war, such as the North Dakota Department of Veterans Affairs' ongoing efforts to train judges, lawyers, law enforcement, corrections officers and service providers on the connection between service connected mental illness and criminal behavior.

This Bill does not direct that anything particular be done, it simply adds a new section to the law on sentencing alternatives, helping to ensure that prior to sentencing a veteran's service connected mental illness is considered. The court may use the information it obtains to assist in making a more informed sentencing decision and craft a sentence that both holds the veteran accountable for his or her conduct and provides a road to recovery and rehabilitation.

This Bill will reinforce success that has already been achieved on a case-by-case basis. In 2010, a service member suffering from a combination of PTSD and TBI took law enforcement on a high speed chase down Highway 85 with a vehicle full of weapons. He wanted to die and he asked the officers to shoot him. Through the combined efforts of the court, state's attorney, defense council, the Veterans Administration, NDVA, and others, who recognized that his service connected illnesses were at the heart of his criminal behavior, this veteran went to treatment instead of prison. This bill helps ensure

#1
HB 1106
1-7-15
PJ2

that service connected disabilities are consider by all judges, in all cases, not just sensational cases that come to the public's attention.

Going forward, we need to continue to evaluate the needs of the veterans in our state. While we see this as a positive step forward, we need to continue to look for creative solutions that get us out front of the problem. Programs like continuing education for first responders and pre-prosecution diversion programs are potential next steps in our efforts to address the invisible wounds of war.

I ask for your support for this bill and will stand for any questions you may have.

#2
HB1106
1-7-15
Pg 1

House Judiciary Committee

Representative Kim Koppelman, Chairman

Les (Barney) Tomanek

Director, North Dakota Parole and Probation

North Dakota Department of Corrections and Rehabilitation

Presenting Testimony on House Bill 1106

Wednesday, January 7, 2015

Good morning Chairman Koppelman and members of the House Judiciary Committee. My name is Barney Tomanek, Director of the North Dakota Parole and Probation Department. I am here on behalf of the Department of Corrections and Rehabilitation to provide testimony in support of House Bill 1106.

One of the duties of the Parole and Probation Department is to provide Pre-Sentence Investigations for the Courts. These investigations provide valuable information to the Judges, and also are valuable tools that we use as roadmaps to supervise offenders. Mental Health cases are certainly some of our biggest challenges, and are often frustrating for staff as it so often seems that few options are available to assist with this population in the community. For those current and former members of our Armed Services, it seems prudent to explore whether a mental illness is present, and if there are any treatment options available whether on the federal, state, or local level. Offenders are most effectively served by bringing together our community partners to coordinate services. Working together with other agencies familiar with services available for our Veterans is a Win-Win situation for everyone.

Two primary goals for Parole and Probation Officers are to reduce an offender's risk factors thereby offering greater opportunity to succeed in the community, and to make our communities a safer place to live. By identifying the members of the Armed Services, and more specifically those dealing with diagnosed mental

#2
HB 1106
1-7-15
Pg 2.

health issues, I believe we can offer better services to our Veterans, and subsequently make our communities safer places to live.

If I have a concern with HB 1106, it is with the vague language that states if a Veteran is "convicted of a crime". This could be anything from a minor infraction or misdemeanor offense, all the way up to a high level felony. Our office deals primarily with felony and serious misdemeanor offenses, and may not have the resources to deal with the low-level offenses. This bill does not mandate a PSI, however, and therefore I would anticipate the courts would continue to use proper discretion when ordering PSI's.

On behalf of the North Dakota Department of Corrections and Rehabilitation, we see this as a positive step to assist our Veterans, and request a "Do Pass" on House Bill 1106.

This concludes my testimony and I would be happy to answer any questions you may have.

#3
HB1106
1-7-15
pg 1

House Judiciary Committee
Representative Kim Koppelman, Chairman

Lisa Peterson, PhD
Clinical Director
North Dakota Department of Corrections and Rehabilitation
Presenting Testimony on House Bill 1106
Wednesday, January 7, 2015

Good morning Chairman Koppelman and members of the House Judiciary Committee. My name is Lisa Peterson. I am a licensed psychologist and Clinical Director of the Department of Corrections and Rehabilitation. I am here on behalf of the Department of Corrections and Rehabilitation to provide testimony in support of House Bill 1106.

Data over the last two years suggest that approximately 10% of the DOCR's inmate population reported a history of military service. The majority of these individuals reported prior Army (40%) and National Guard (35%) service. Fifty percent of this group has an active substance use disorder diagnosis, five percent have been identified as meeting criteria for Posttraumatic Stress Disorder (PTSD), and 15 percent have been diagnosed with a severe mental illness. The prevalence rates of problematic substance abuse and severe mental illness are much higher than in the general population, while the rate of PTSD mirrors the lifetime prevalence rate for adult males nationwide.

One of the tasks of the Department of Corrections and Rehabilitation is to evaluate offenders on a variety of risk factors research has shown to be predictive of future criminal behavior. In this vein, we use the Levels of Service Inventory, Revised (LSI-R), an actuarial assessment tool, to determine which offenders are more and less likely to commit another crime. Research has shown that correctional programs are more effective when they focus on moderate and high risk offenders. In fact, incarcerating low risk offenders and treating them in prison environments can actually increase the likelihood that they will recidivate. Ensuring that our current and former service members have access to pre-sentence investigation services will allow DOCR staff to effectively identify those who are low risk and could be better served through alternatives to incarceration. The average LSI-R score of our current incarcerated service member population is a 27, which represents a moderate risk for re-offense and places the individual within a group of offenders whose average rate of re-offense is 48 percent. That said, it is anticipated that a significant number of incarcerated service members and those sentenced to a term of probation would fall into the moderate-low and low risk categories and could be effectively served through alternatives to incarceration.

3

HB 1106
1-7-15
pg 2

The interaction of mental illness and criminal recidivism is complex and no clear causal link has been found between mental health status and criminality. We do know, however, that some people would stop committing crimes if their mental illness were to be effectively treated. Another benefit of providing pre-sentence investigation services to current and former members of the Armed Services is to identify individuals who would likely cease to engage in criminal behavior upon stabilization of their mental health from those who might require further interventions to treat other crime-producing risk factors. In fact, recommending a pre-sentence investigation is a good idea any time there is evidence to suggest a defendant suffers from significant mental health problems.

If I have a concern with this bill as it is presently phrased, it is that it seems to require the defendant to have prior military service and have been previously diagnosed with a mental illness by a qualified doctoral level practitioner for the pre-sentence investigation to be ordered and treatment recommendations considered. Due to the stigma that still exists around seeking mental health services and identifying oneself as in need of help, many service members may have mental health concerns that remain undiagnosed when they become involved with the criminal justice system. A pre-sentence investigation that also includes a referral for a psychological or psychiatric evaluation would provide necessary diagnostic clarification and treatment recommendations. I would urge the court to order a pre-sentence investigation, along with psychological or psychiatric evaluation, when there is evidence to suggest mental health concerns are present, even if they have not yet been formally diagnosed.

On behalf of the North Dakota Department of Corrections and Rehabilitation, we see this as a positive step to assist our current and former service members, and request a "Do Pass" on House Bill 1106.

This concludes my testimony and I would be happy to answer any questions you may have.

#4
HB 1106
1-7-15

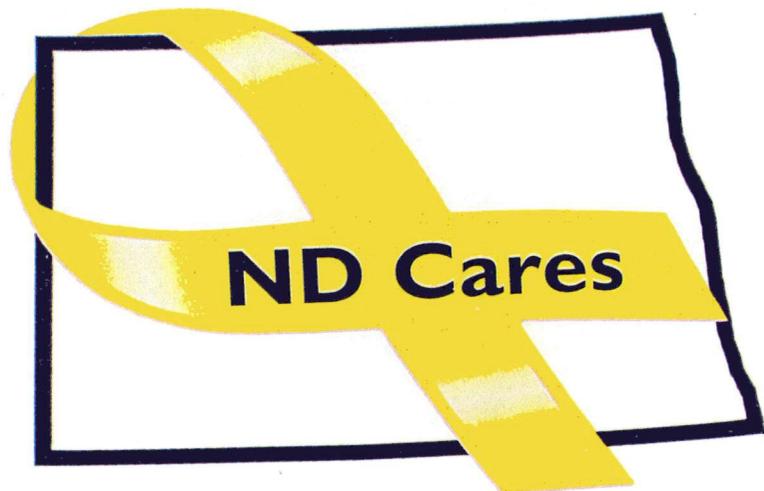
NORTH DAKOTA
**MILITARY
DATA BOOK**



Service Members, Veterans, Families, and Survivors



2014-2015



Supporting All Who Have Served

A Coalition Dedicated to Strengthening an Accessible, Seamless System of Support for Service Members, Veterans, Families, and Survivors in North Dakota

TABLE OF CONTENTS

DEMOGRAPHICS	1
EMPLOYMENT	3
USING	4
BEHAVIORAL HEALTH <small>[mental health, substance abuse, suicide, traumatic brain injury, ND Department of Corrections and Rehabilitation]</small>	5
RESOURCE DIRECTORY	11
SOURCES	13
ABOUT ND Cares	14

“Suicides challenge military services”

^{Bismarck}
Tribune

“Veterans Officers Ask for Medical Services”

Williston Herald



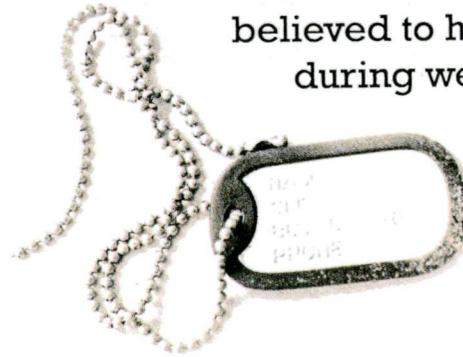
“Serving the military men and women after the fact”

Williston Herald

“US Officials Launch New Strategy to Prevent Suicide” **INFORUM**



“North Dakota National Guard soldier believed to have died by suicide during weekend training” **WDAZ 8 abc** TELEVISION



“New VA clinic in Williston helps to provide needs of area veterans”

Williston Herald



“Soldier’s Suicide Impetus for Effort” **INFORUM**

INFORUM

“Event Helps Homeless and In-Need Veterans” **5 KFYR-TV** Your News Leader



DEMOGRAPHICS

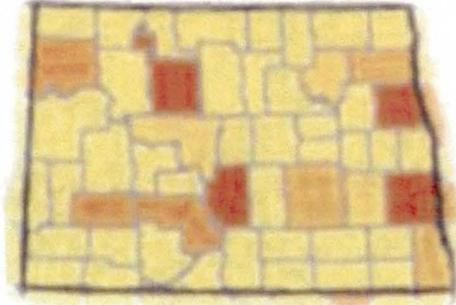
56,770

Veterans in North Dakota

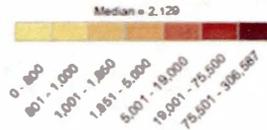
11% of the population

U.S. Census Bureau 2012 American Community Survey 1-Year Estimates

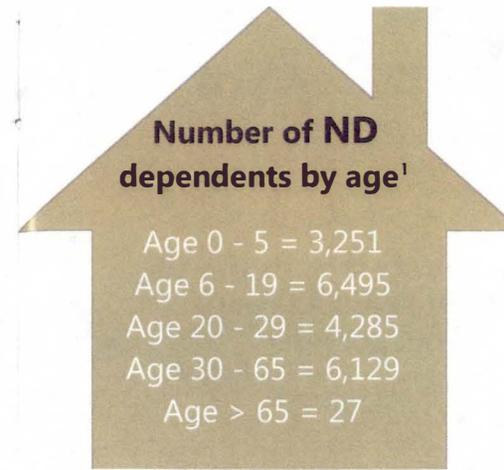
Veteran Population by County



Department of Veterans Affairs, Office of the Actuary, Veteran Population Projection Model (VetPop), 2011 as of 9/30/2013



Dependents



Number of Dependents for all Activated North Dakota Service Members¹



Gender

8.9% Female
91.1% Male



North Dakota

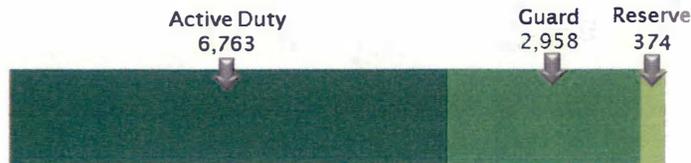
U.S. Census Bureau 2012 American Community Survey 1-Year Estimates

Deployment

Deployed since 9/11¹

[as of May 2012]

A total of **10,095** North Dakotans have been deployed since 9/11.



Single Parenting



142,000²

Nationally, approximately 142,000 members of the U.S. Armed Forces (Active, Guard, and Reserve) are **single parents of minor children**.

Family Life

Military family life is characterized by unique demands.

- Separation
- Risk of injury or death of the service member
- Long work hours and shift work
- Frequent relocation
- Unique organizational culture and norms
- Family separations due to military deployments

¹U.S. Department of Defense, Department of Manpower Data Center. (Dependent Data as of August 2012) (Deployment Data as of May 2012)

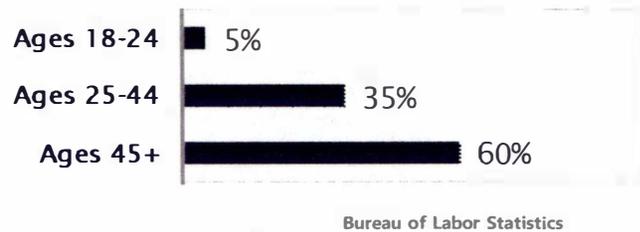
²Benchmark Institute: Guide to Veterans Legal Issues. (2011)

EMPLOYMENT

Unemployment Rate of Veterans
18 Years and Over
[Bureau of Labor Statistics,
2013 annual averages]

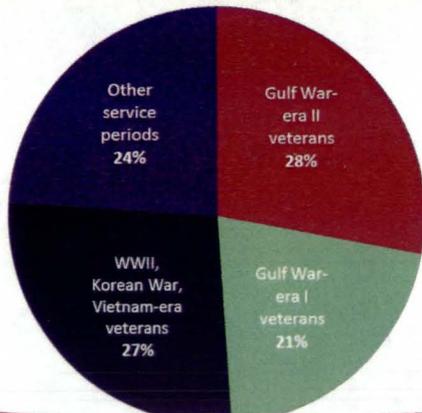
United States	6.6%
North Dakota	3.2%

**Unemployed Veterans in the US
in 2013, by Age Category
(n=722,000)**



While most veterans transition back to civilian life successfully, many still struggle. Securing steady employment in a rewarding, lucrative and long-term career is an enormous part of a successful transition.

National Unemployment by Period of Service



Bureau of Labor Statistics, Current Population Survey, annual averages 2013

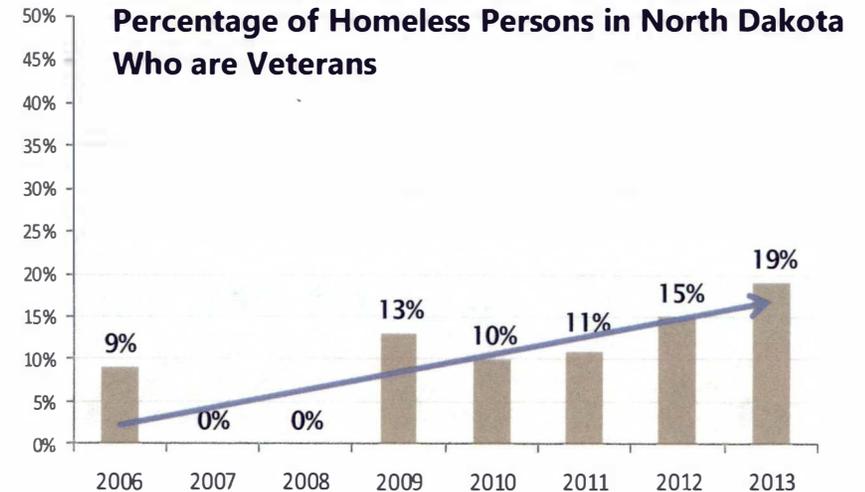
HOUSING

124

Homeless Veterans in ND

(121 sheltered and 3 unsheltered)

Housing and Urban Development (HUD)
2011 Point in Time Count



North Dakota Homeless Population Point-in-Time Survey, 2006-2013
According to HUD, a "homeless person" is an individual who lacks a fixed, regular, and adequate nighttime residence which includes temporary housing shelters.

Compared with other homeless adults, homeless Veterans are **more likely** to ...

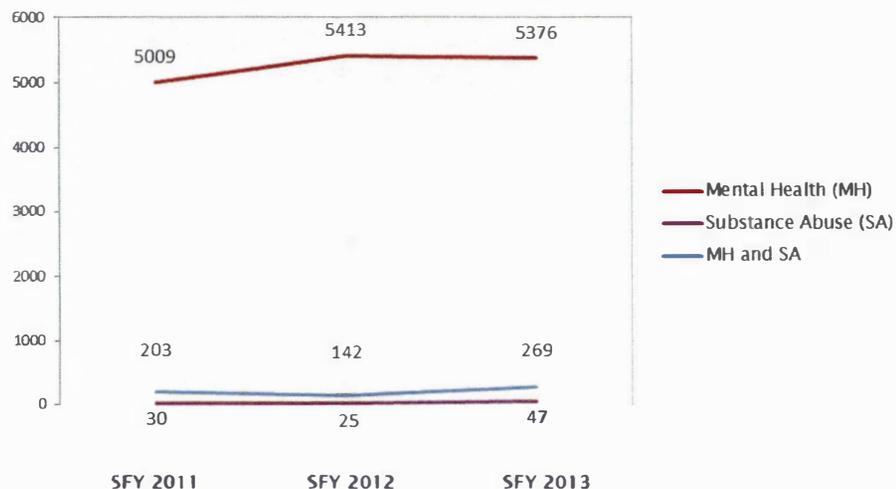
- ▶ Have **higher levels of education, military skills,** and employment experience that may be transferable
- ▶ Have a **mental illness, substance abuse and/or health problem** such as HIV/AIDS, cancer, or hypertension
- ▶ Be **living unsheltered** and experience **long-term homelessness**

BEHAVIORAL HEALTH

Substance Use and Mental Health

Veterans Health Administration

Number of Veterans Who Received Mental Health and Substance Abuse Services from Veteran Health in North Dakota



US Department of Veterans Affairs; Fargo VA Health Care System

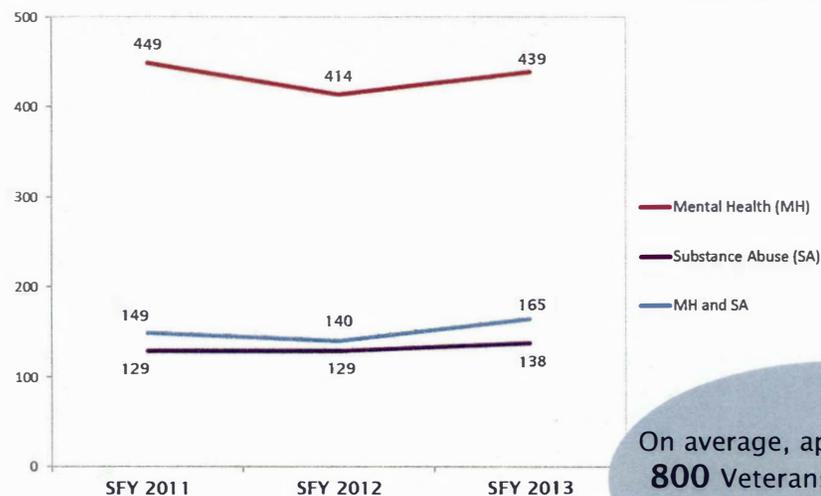
For the purposes of VA health benefits and services, a person who served in the active military service and who was discharged or released under conditions other than dishonorable is a Veteran.

Nationally, about **half** of returning service members who **need treatment** for mental health conditions seek it, and **slightly more than half** who **receive treatment** receive **adequate care**¹

¹ http://www.rand.org/content/dam/rand/pubs/research_briefs/2008/RAND_RB9336.pdf

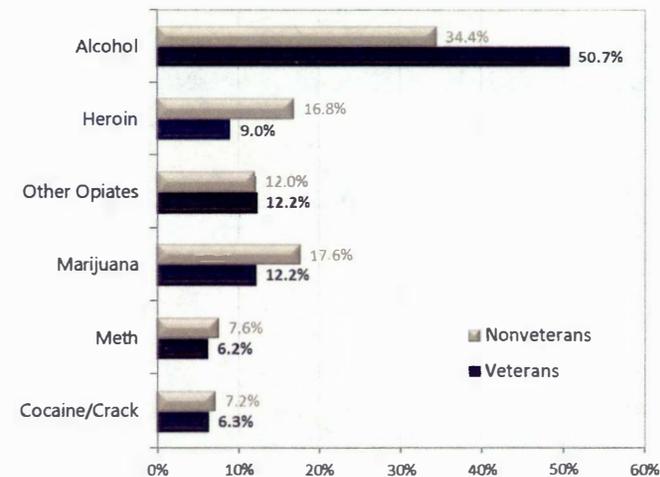
North Dakota Human Service Centers

Number of Veterans or Those Served in the Military Who Received Services from the Human Service Centers in North Dakota



On average, approximately **800** Veterans are served per year in the ND Human Service Centers.

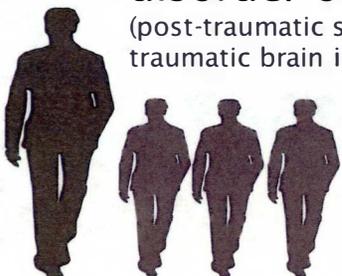
National Primary Substance of Abuse in Treatment Admissions, Aged 21 to 39 [NATIONAL NSDUH, 2010]



BEHAVIORAL HEALTH

Nationally, mental and substance use disorders caused **more hospitalizations** among U.S. troops in 2009 than any other cause¹

An estimated **1 in 4** (25-30%) of U.S. veterans of the wars in Iraq and Afghanistan have reported **symptoms of a mental disorder or cognitive condition²** (post-traumatic stress disorder, major depression, traumatic brain injury, etc.)

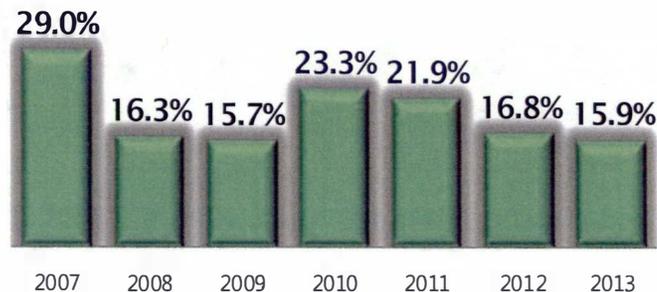


Definition of Post Traumatic Stress Disorder (Mayo Clinic): mental health condition that's triggered by a terrifying event — either experiencing it or witnessing it. Symptoms may include flashbacks, nightmares and severe anxiety, as well as uncontrollable thoughts about the event.

Nationally, approximately **19%** of service members returning from Iraq or Afghanistan have **post traumatic stress disorder (PTSD) or depression³**

Since the Global War on Terrorism began, **more North Dakota National Guard members have died by SUICIDE than in COMBAT.**

Percentage of Suicides Committed by Veterans in North Dakota



Many Factors Influence an Individual's Likelihood To Develop a Behavioral Health Problem.²

The **RISK FACTORS** below are associated with a **HIGHER** likelihood of suicide and the **PROTECTIVE FACTORS** are associated with a **LOWER** likelihood of suicide.

RISK Factors	PROTECTIVE Factors
<ul style="list-style-type: none"> Some major physical illnesses, mental disorders, and substance use disorders Barriers to accessing health care Stigma associated with help-seeking behavior Easy access to lethal means (e.g., firearms or poison) Lack of social support and sense of isolation Cultural/religious beliefs that accept suicide 	<ul style="list-style-type: none"> Effective clinical care for physical illnesses, mental disorders and substance use disorders Easy access to a variety of clinical interventions Support for help-seeking behavior Restricted access to lethal means (e.g., firearms or poison) Strong connections to family and community support Cultural/religious beliefs that discourage suicide

¹ Zoroya, G. (2010, May 14). Mental health hospitalizations up for troops. *USA Today*. Retrieved March 25, 2011, from http://www.armytimes.com/news/2010/05/gns_mental_health_051410/ (Original source: Pentagon's Medical Surveillance Month Report.)

² Substance Abuse and Mental Health Services Administration, Office of Applied Studies. (November 6, 2008). *The NSDUH Report - Major Depressive Episode and Treatment for Depression among Veterans Aged 21 to 39*. Rockville, MD.

³ Tanielian, T. L., RAND Corporation & Center for Military Health Policy Research. (2008). *Invisible wounds of war: Summary and recommendations for addressing psychological and cognitive injuries*. Santa Monica: RAND.

² Examples of risk and protective factors selected from U.S. Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC), Injury Center: Violence Prevention, Suicide: Risk and Protective Factors, <http://www.cdc.gov/violenceprevention/suicide/riskprotectivefactors.html>.

BEHAVIORAL HEALTH

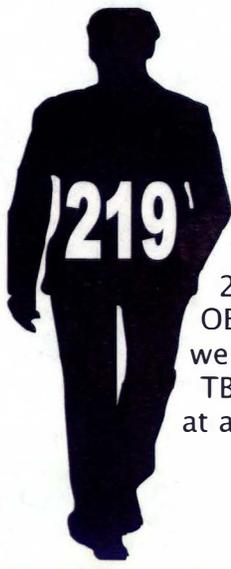
Traumatic Brain Injury

Traumatic Brain Injury (TBI) has been defined as "an alteration in brain function, or other evidence of brain pathology, caused by an external force."¹

About **1 in 5** service members, nationally, returning from Iraq or Afghanistan report experiencing a traumatic brain injury (TBI) during deployment²

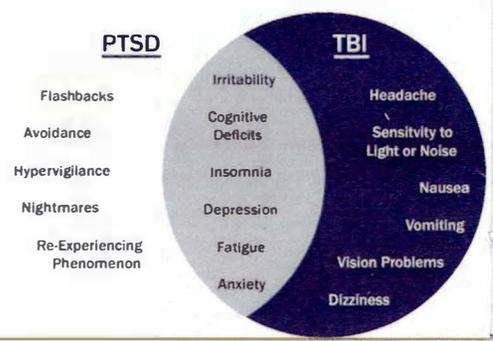
20%

Traumatic brain injury (TBI) has become known as a "signature wound" of *Operation Enduring Freedom (OEF)* and *Operation Iraqi Freedom (OIF)*, because the incidence of TBI is higher in these conflicts than it has been in previous conflicts.¹



From 2002-2010, 219 North Dakota OEF/OIF Veterans were diagnosed with TBI-related conditions at a VA facility.²

Nationally, three-quarters of VA patients with a TBI diagnosis also had a diagnosis of PTSD.³



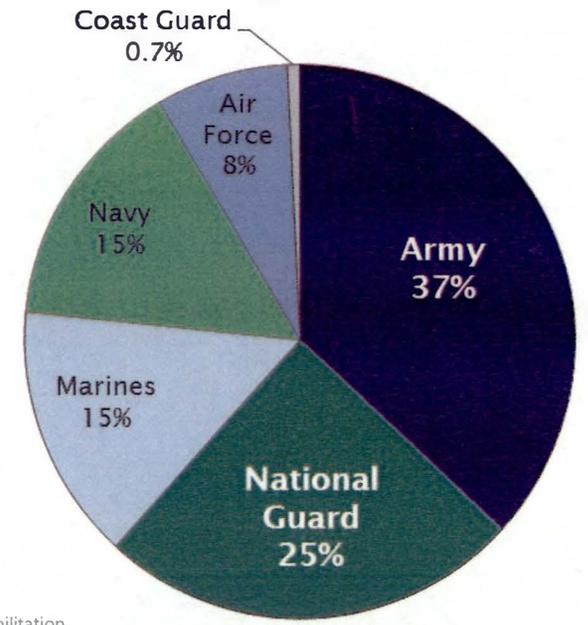
1 in 10 (10.6%) male inmates in North Dakota has some history of military service.
(1% of female inmates have some history of military service)

63 of the 141 male inmates have an honorable, medical, training, administrative, or general discharge status.

ND Veteran Inmates →

50.4% have an **SUBSTANCE USE DISORDER** diagnosis
14.2% have a serious **MENTAL ILLNESS** diagnosis

Military Branches Represented among Male Inmates



¹ Bagalman, Erin., Congressional Research Service. (Jan 2013). Traumatic Brain Injury among Veterans. Washington, DC: Library of Congress. http://www.ncsl.org/documents/statefed/health/TBI_Vets2013.pdf
² Tanielian, T. L., RAND Corporation & Center for Military Health Policy Research. (2008). *Invisible wounds of war: Summary and recommendations for addressing psychological and cognitive injuries*. Santa Monica: RAND.
³ Congressional Budget Office. (Feb 2012). The Veterans Health Administration's Treatment of PTSD and Traumatic Brain Injury among Recent Combat Veterans.

RESOURCES

National



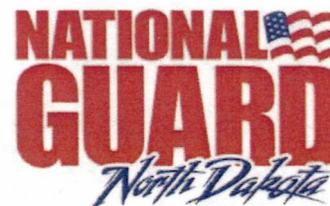
www.warriorgateway.org



www.militaryonesource.mil



www.va.gov



www.ndguard.ngb.army.mil



www.nd.gov/veterans



www.nd.gov/dhs/services/mentalhealth



www.ndhealth.gov/suicideprevention/?id=73

North Dakota

SOURCES

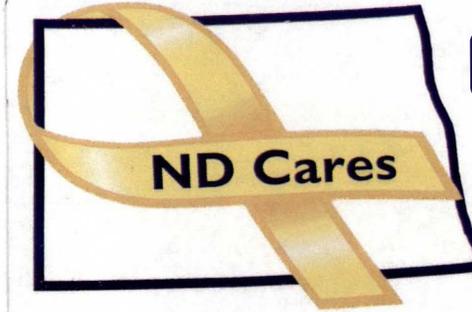
Please note that definitions may be different based on the source of the data or information. For more information on this or other methodology questions, visit the selected websites below.

US Department of Veterans Affairs: National Center for Veterans Analysis and Statistics—www.va.gov/vetdata

United States Census Bureau: American Community Survey—www.census.gov/acs

United States Department of Labor: Bureau of Labor Statistics—www.bls.gov

Substance Abuse and Mental Health Services Administration: National Survey on Drug Use and Health—www.samhsa.gov/data/NSDUH.aspx



MISSION

Strengthening an Accessible, Seamless Network of Support for Service Members, Veterans, Families, and Survivors

ABOUT US

Coalition members share a common interest in strengthening a seamless, accessible network of support across the state. The coalition is not a service provider, but represents a broad spectrum of programs and providers whose work touches the lives of service members, veterans, families and survivors.

PRIORITIES

Behavioral Health is the focus of ND Cares, as these problems are far-reaching and exact an enormous toll on individuals, their families, communities, and the broader society.

ND Cares Goals:

- * Conduct a comprehensive assessment of needs
- * Integrate existing programs and resources to strengthen an effective and efficient system
- * Develop a leader network to support collaborative efforts

ND Cares comprises a growing team of more than 40 military and civilian professionals throughout North Dakota.

For additional copies, contact:



NORTH DAKOTA
PREVENTION
RESOURCE AND MEDIA CENTER

North Dakota Department of Human Services
Division of Mental Health and Substance Abuse Services
Prevention Resource & Media Center (PRMC)
1237 West Divide Avenue, Suite 1D
Bismarck, ND 58501

Phone: 701-328-8919
Email: ndprmc@nd.gov
www.nd.gov/dhs/prevention



15.8032.01001
Title.

Prepared by the Legislative Council staff for
Representative Maragos
January 12, 2015

#1
HB 1106
1-13-15
JG

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1106

Page 1, line 6, replace "is convicted" with "has plead or is found guilty"

Page 1, line 9, remove "has been diagnosed as having a mental illness by a"

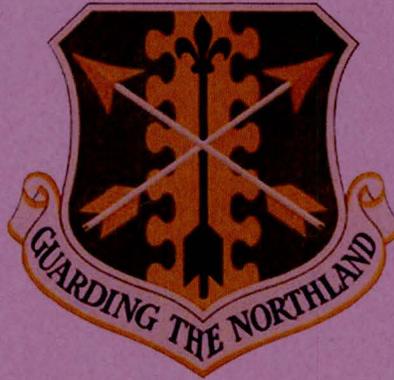
Page 1, line 10, replace "qualified psychiatrist or clinical psychologist or physician" with "there is reason to believe there is a behavioral health condition"

Renumber accordingly



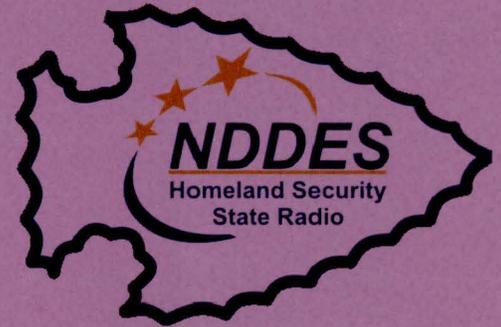
Army National Guard

“The Straight Arrows”



Air National Guard

“The Happy Hooligans”



*Department of
Emergency Services
Homeland Security &
State Radio*

*The
Office of the
Adjutant General*

*Testimony of
Brigadier General Alan Dohrmann
Deputy Adjutant General*

before the

*Judiciary Committee
March 4, 2015*

HOUSE BILL 1106

TESTIMONY OF
BRIGADIER GENERAL ALAN S. DOHRMANN
THE DEPUTY ADJUTANT GENERAL
BEFORE THE
SENATE JUDICIARY COMMITTEE
4 MARCH 2015
HOUSE BILL 1106

Good morning Mr. Chairman, members of the committee, I am Brigadier General Alan Dohrmann, The Deputy Adjutant General for the North Dakota National Guard. I am here today to testify in support of House Bill 1106.

After over 13 years of war, we continue to deal with the wounds of war, both visible and invisible, such as Post Traumatic Stress (PTS) and mild Traumatic Brain Injury (MTBI). According to the Federal Department of Veteran Affairs, up to 20% of veterans who served in OIF or OEF have PTS. Without assistance many of these service members begin to self medicate with alcohol or drugs, which all too often results in coming into contact with the criminal justice system.

To address the issues our veterans face, several states have established Veteran Courts. The purpose of these courts is to assist veterans struggling with mental health issues by redirecting them off the destructive path they are on with treatment and services. While this Bill does not get us all the way to a Veterans' Court, it helps ensure courts take the impacts of military service into consideration prior to sentencing. This "tool" in each judge's tool-kit will compliment other efforts to address the invisible wounds of war, such as the North Dakota Department of Veterans Affairs' ongoing efforts to train judges, lawyers, law enforcement, corrections officers and service providers on the connection between military service related behavioral health conditions and criminal behavior.

This Bill does not direct that anything particular be done, it simply adds a new section to the law on sentencing alternatives, helping to ensure that prior to sentencing a veteran behavioral health condition is considered. The court may use the information it obtains to assist in making a more informed sentencing decision and craft a sentence that both holds the veteran accountable for his or her conduct and provides a road to recovery and rehabilitation.

This Bill will reinforce success that has already been achieved on a case-by-case basis. In 2010, a service member suffering from a combination of PTSD and TBI took law enforcement on a high speed chase down Highway 85 with a vehicle full of weapons. He wanted to die and he asked the officers to shoot him. Through the combined efforts of the court, state's attorney, defense council, the Veterans

Administration, NDVA, and very professional law enforcement officers, who recognized that his service connected illnesses were at the heart of his criminal behavior, this veteran went to treatment instead of prison. This Bill helps ensure that a military member's behavioral health condition is considered by all judges, in all cases, not just sensational cases that come to the public's attention.

Going forward, we need to continue to evaluate the needs of the veterans in our state. While we see this as a positive step forward, we need to continue to look for creative solutions that get us out in front of the problem. Programs like continuing education for first responders and a pre-prosecution diversion program are potential next steps in our efforts to address the invisible wounds of war.

I ask for your support for this bill and will stand for any questions you may have.

**Testimony
Engrossed House Bill 1106 – Department of Human Services
Senate Judiciary Committee
Senator Hogue, Chairman
March 4, 2015**

Chairman Hogue, members of the Senate Judiciary Committee, I am Pamela Sagness, Substance Abuse Lead with the Department of Human Services. I am here in support of Engrossed House Bill 1106.

Nationally, only about half of returning service members who need treatment for behavioral health conditions seek it, and slightly more than half who receive treatment receive adequate care. The Department of Human Services supports improving access to behavioral health services to all service members in need of assistance.

Chairman Hogue and members of the committee, this concludes my testimony on Engrossed House Bill 1106 and I would be glad to answer any questions.

For additional copies, contact:



North Dakota Department of Human Services
Division of Mental Health and Substance Abuse Services
Prevention Resource & Media Center (PRMC)
1237 West Divide Avenue, Suite 1D
Bismarck, ND 58501

Phone: 701-328-8919
Email: ndprmc@nd.gov
www.nd.gov/dhs/prevention



HB 1106 ²
3/4/15

NORTH DAKOTA MILITARY DATA BOOK



Service Members, Veterans, Families, and Survivors



2014-2015



Supporting All Who Have Served

A Coalition Dedicated to Strengthening an Accessible, Seamless System of Support for Service Members, Veterans, Families, and Survivors in North Dakota

TABLE OF CONTENTS

DEMOGRAPHICS	1
EMPLOYMENT	3
USING	4
BEHAVIORAL HEALTH <small>[mental health, substance abuse, suicide, traumatic brain injury, ND Department of Corrections and Rehabilitation]</small>	5
RESOURCE DIRECTORY	11
SOURCES	13
ABOUT ND Cares	14

“Suicides challenge military services”

^{Bismarck}
Tribune

“Veterans Officers Ask for Medical Services”

Williston Herald



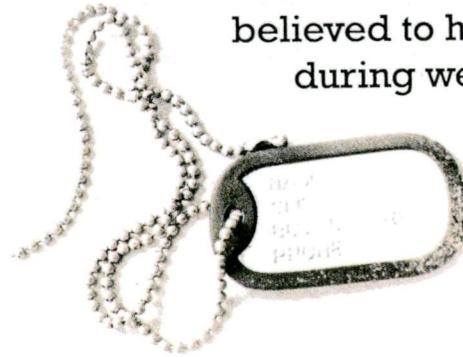
“Serving the military men and women after the fact”

Williston Herald

“US Officials Launch New Strategy to Prevent Suicide” **INFORUM**

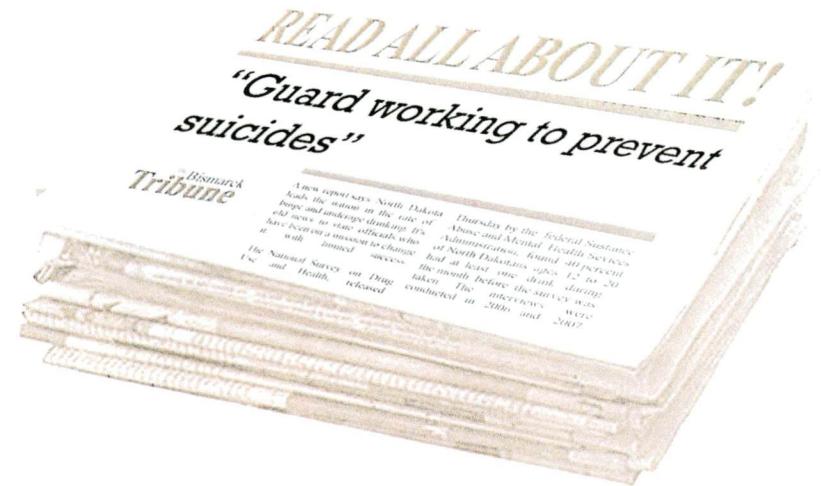


“North Dakota National Guard soldier believed to have died by suicide during weekend training” **WDAZ 8 abc TELEVISION**



“New VA clinic in Williston helps to provide needs of area veterans”

Williston Herald



“Soldier’s Suicide Impetus for Effort” **INFORUM**

INFORUM

“Event Helps Homeless and In-Need Veterans” **5 KFYR-TV Your News Leader**



DEMOGRAPHICS

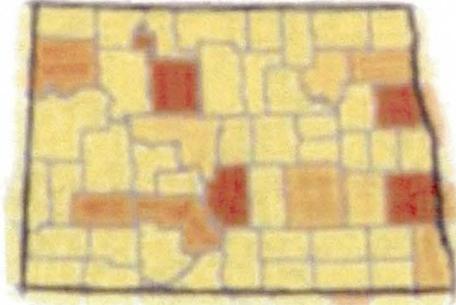
56,770

Veterans in North Dakota

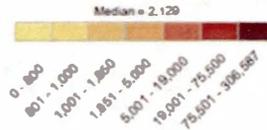
11% of the population

U.S. Census Bureau 2012 American Community Survey 1-Year Estimates

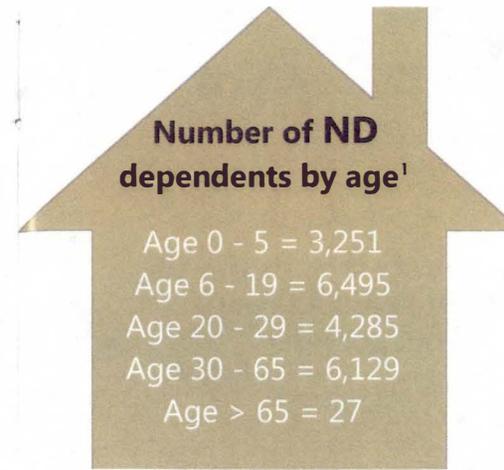
Veteran Population by County



Department of Veterans Affairs, Office of the Actuary, Veteran Population Projection Model (VetPop), 2011 as of 9/30/2013



Dependents



Number of Dependents for all Activated North Dakota Service Members¹



Gender

8.9% Female
91.1% Male



North Dakota

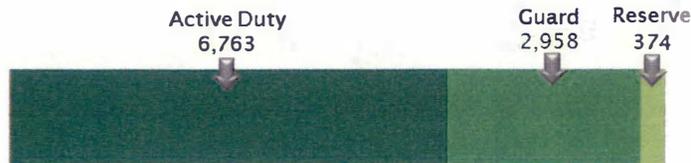
U.S. Census Bureau 2012 American Community Survey 1-Year Estimates

Deployment

Deployed since 9/11¹

[as of May 2012]

A total of **10,095** North Dakotans have been deployed since 9/11.



Single Parenting



142,000²

Nationally, approximately 142,000 members of the U.S. Armed Forces (Active, Guard, and Reserve) are **single parents of minor children**.

Family Life

Military family life is characterized by unique demands.

- Separation
- Risk of injury or death of the service member
- Long work hours and shift work
- Frequent relocation
- Unique organizational culture and norms
- Family separations due to military deployments

¹U.S. Department of Defense, Department of Manpower Data Center. (Dependent Data as of August 2012) (Deployment Data as of May 2012)

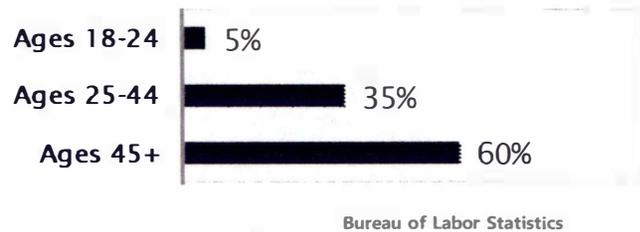
²Benchmark Institute: Guide to Veterans Legal Issues. (2011)

EMPLOYMENT

Unemployment Rate of Veterans
18 Years and Over
[Bureau of Labor Statistics,
2013 annual averages]

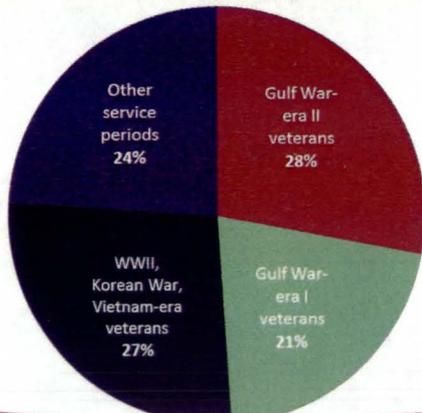
United States	6.6%
North Dakota	3.2%

**Unemployed Veterans in the US
in 2013, by Age Category
(n=722,000)**



While most veterans transition back to civilian life successfully, many still struggle. Securing steady employment in a rewarding, lucrative and long-term career is an enormous part of a successful transition.

National Unemployment by Period of Service



Bureau of Labor Statistics, Current Population Survey, annual averages 2013

HOUSING

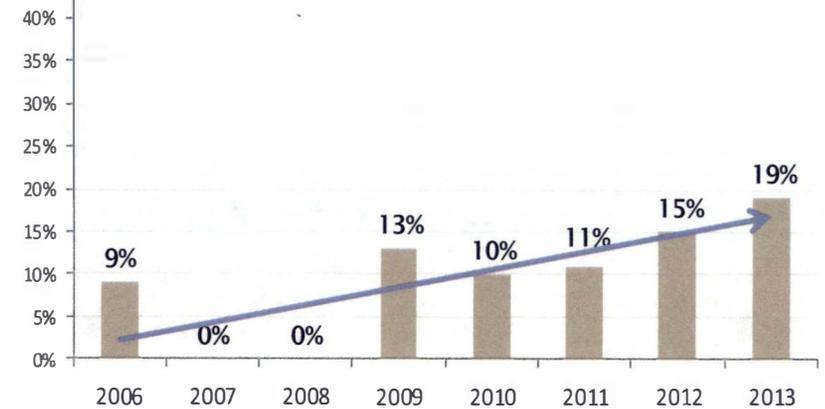
124

Homeless Veterans in ND

(121 sheltered and 3 unsheltered)

Housing and Urban Development (HUD)
2011 Point in Time Count

Percentage of Homeless Persons in North Dakota Who are Veterans



North Dakota Homeless Population Point-in-Time Survey, 2006-2013
According to HUD, a "homeless person" is an individual who lacks a fixed, regular, and adequate nighttime residence which includes temporary housing shelters.

Compared with other homeless adults, homeless Veterans are **more likely** to ...

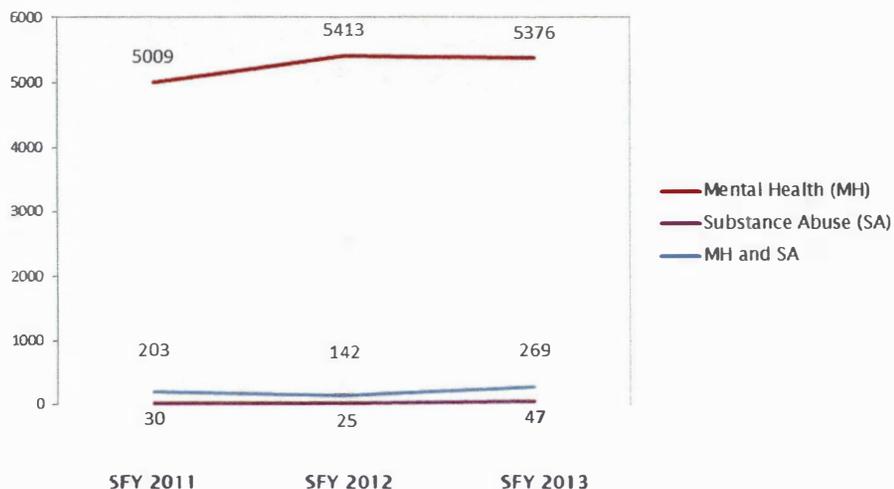
- ▶ Have **higher levels of education, military skills,** and employment experience that may be transferable
- ▶ Have a **mental illness, substance abuse and/or health problem** such as HIV/AIDS, cancer, or hypertension
- ▶ Be **living unsheltered** and experience **long-term homelessness**

BEHAVIORAL HEALTH

Substance Use and Mental Health

Veterans Health Administration

Number of Veterans Who Received Mental Health and Substance Abuse Services from Veteran Health in North Dakota



US Department of Veterans Affairs; Fargo VA Health Care System

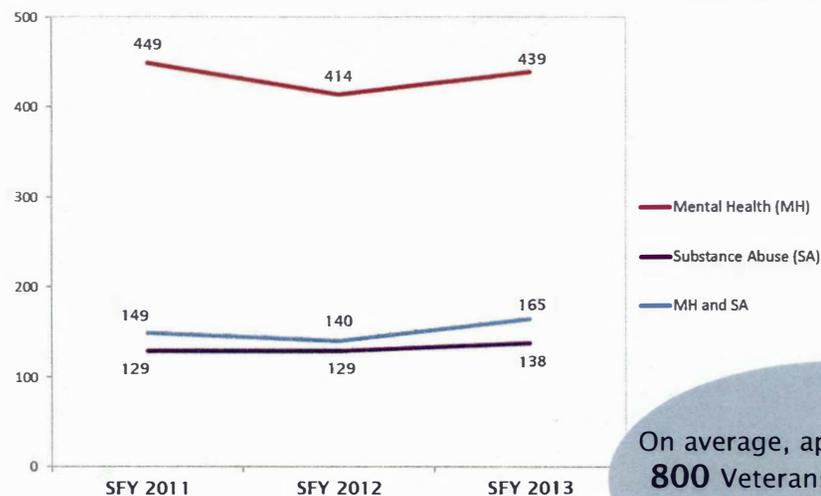
For the purposes of VA health benefits and services, a person who served in the active military service and who was discharged or released under conditions other than dishonorable is a Veteran.

Nationally, about **half** of returning service members who **need treatment** for mental health conditions seek it, and **slightly more than half** who **receive treatment** receive **adequate care**¹

¹ http://www.rand.org/content/dam/rand/pubs/research_briefs/2008/RAND_RB9336.pdf

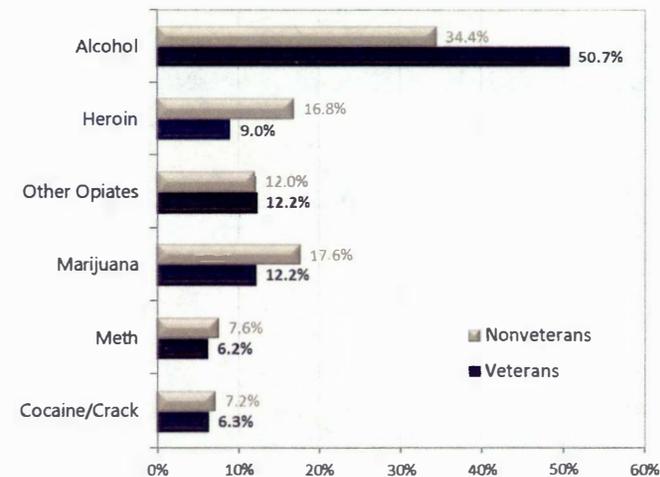
North Dakota Human Service Centers

Number of Veterans or Those Served in the Military Who Received Services from the Human Service Centers in North Dakota



On average, approximately **800** Veterans are served per year in the ND Human Service Centers.

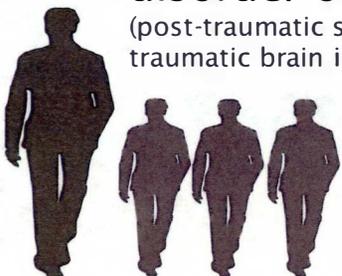
National Primary Substance of Abuse in Treatment Admissions, Aged 21 to 39 [NATIONAL NSDUH, 2010]



BEHAVIORAL HEALTH

Nationally, mental and substance use disorders caused **more hospitalizations** among U.S. troops in 2009 than any other cause¹

An estimated **1 in 4** (25-30%) of U.S. veterans of the wars in Iraq and Afghanistan have reported **symptoms of a mental disorder or cognitive condition²** (post-traumatic stress disorder, major depression, traumatic brain injury, etc.)

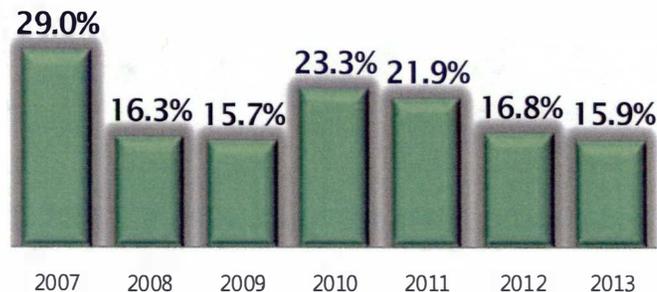


Definition of Post Traumatic Stress Disorder (Mayo Clinic): mental health condition that's triggered by a terrifying event — either experiencing it or witnessing it. Symptoms may include flashbacks, nightmares and severe anxiety, as well as uncontrollable thoughts about the event.

Nationally, approximately **19%** of service members returning from Iraq or Afghanistan have **post traumatic stress disorder (PTSD) or depression³**

Since the Global War on Terrorism began, **more North Dakota National Guard members have died by SUICIDE than in COMBAT.**

Percentage of Suicides Committed by Veterans in North Dakota



Many Factors Influence an Individual's Likelihood To Develop a Behavioral Health Problem.²

The **RISK FACTORS** below are associated with a **HIGHER** likelihood of suicide and the **PROTECTIVE FACTORS** are associated with a **LOWER** likelihood of suicide.

RISK Factors	PROTECTIVE Factors
<ul style="list-style-type: none"> Some major physical illnesses, mental disorders, and substance use disorders Barriers to accessing health care Stigma associated with help-seeking behavior Easy access to lethal means (e.g., firearms or poison) Lack of social support and sense of isolation Cultural/religious beliefs that accept suicide 	<ul style="list-style-type: none"> Effective clinical care for physical illnesses, mental disorders and substance use disorders Easy access to a variety of clinical interventions Support for help-seeking behavior Restricted access to lethal means (e.g., firearms or poison) Strong connections to family and community support Cultural/religious beliefs that discourage suicide

¹ Zoroya, G. (2010, May 14). Mental health hospitalizations up for troops. *USA Today*. Retrieved March 25, 2011, from http://www.armytimes.com/news/2010/05/gns_mental_health_051410/ (Original source: Pentagon's Medical Surveillance Month Report.)

² Substance Abuse and Mental Health Services Administration, Office of Applied Studies. (November 6, 2008). *The NSDUH Report - Major Depressive Episode and Treatment for Depression among Veterans Aged 21 to 39*. Rockville, MD.

³ Tanielian, T. L., RAND Corporation & Center for Military Health Policy Research. (2008). *Invisible wounds of war: Summary and recommendations for addressing psychological and cognitive injuries*. Santa Monica: RAND.

² Examples of risk and protective factors selected from U.S. Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC), Injury Center: Violence Prevention, Suicide: Risk and Protective Factors, <http://www.cdc.gov/violenceprevention/suicide/riskprotectivefactors.html>.

BEHAVIORAL HEALTH

Traumatic Brain Injury

Traumatic Brain Injury (TBI) has been defined as "an alteration in brain function, or other evidence of brain pathology, caused by an external force."¹



1 in 10 (10.6%) **male inmates in North Dakota** has some history of military service.
(1% of female inmates have some history of military service)

63 of the 141 male inmates have an honorable, medical, training, administrative, or general discharge status.

About **1 in 5** service members, **nationally**, returning from Iraq or Afghanistan report experiencing a traumatic brain injury (TBI) during deployment²

20%

Traumatic brain injury (TBI) has become known as a "**signature wound**" of *Operation Enduring Freedom (OEF)* and *Operation Iraqi Freedom (OIF)*, because the incidence of TBI is higher in these conflicts than it has been in previous conflicts.¹

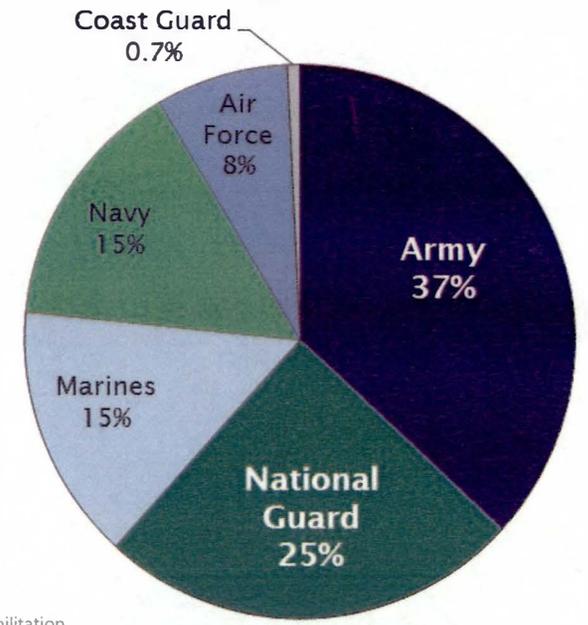


From 2002-2010, **219 North Dakota OEF/OIF Veterans** were diagnosed with TBI-related conditions at a VA facility.²

ND Veteran Inmates →

50.4% have an **SUBSTANCE USE DISORDER** diagnosis
14.2% have a serious **MENTAL ILLNESS** diagnosis

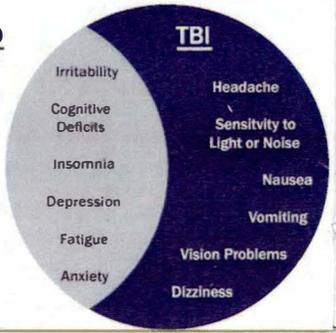
Military Branches Represented among Male Inmates



PTSD

- Flashbacks
- Avoidance
- Hypervigilance
- Nightmares
- Re-Experiencing Phenomenon

TBI



Nationally, three-quarters of VA patients with a TBI diagnosis also had a diagnosis of PTSD.³

¹ Bagalman, Erin., Congressional Research Service. (Jan 2013). Traumatic Brain Injury among Veterans. Washington, DC: Library of Congress. http://www.ncsl.org/documents/statefed/health/TBI_Vets2013.pdf
² Tanielian, T. L., RAND Corporation & Center for Military Health Policy Research. (2008). *Invisible wounds of war: Summary and recommendations for addressing psychological and cognitive injuries*. Santa Monica: RAND.
³ Congressional Budget Office. (Feb 2012). The Veterans Health Administration's Treatment of PTSD and Traumatic Brain Injury among Recent Combat Veterans.

RESOURCES

National



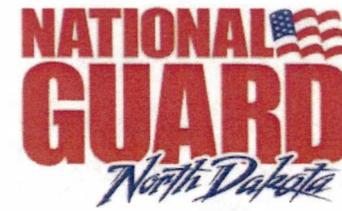
www.warriorgateway.org



www.militaryonesource.mil



www.va.gov



www.ndguard.ngb.army.mil



www.nd.gov/veterans



www.nd.gov/dhs/services/mentalhealth



www.ndhealth.gov/suicideprevention/?id=73

North Dakota

SOURCES

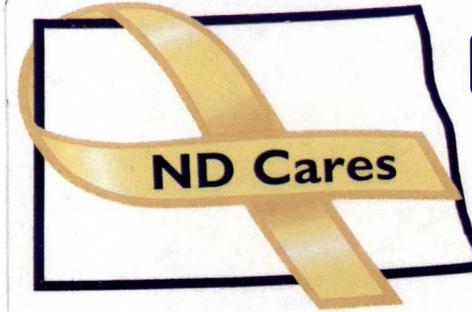
Please note that definitions may be different based on the source of the data or information. For more information on this or other methodology questions, visit the selected websites below.

US Department of Veterans Affairs: National Center for Veterans Analysis and Statistics—www.va.gov/vetdata

United States Census Bureau: American Community Survey—www.census.gov/acs

United States Department of Labor: Bureau of Labor Statistics—www.bls.gov

Substance Abuse and Mental Health Services Administration: National Survey on Drug Use and Health—www.samhsa.gov/data/NSDUH.aspx



MISSION

Strengthening an Accessible, Seamless Network of Support for Service Members, Veterans, Families, and Survivors

ABOUT US

Coalition members share a common interest in strengthening a seamless, accessible network of support across the state. The coalition is not a service provider, but represents a broad spectrum of programs and providers whose work touches the lives of service members, veterans, families and survivors.

PRIORITIES

Behavioral Health is the focus of ND Cares, as these problems are far-reaching and exact an enormous toll on individuals, their families, communities, and the broader society.

ND Cares Goals:

- * Conduct a comprehensive assessment of needs
- * Integrate existing programs and resources to strengthen an effective and efficient system
- * Develop a leader network to support collaborative efforts

ND Cares comprises a growing team of more than 40 military and civilian professionals throughout North Dakota.

Senate Judiciary Committee
Senator David Hogue, Chairman

Lisa Peterson, PhD
Clinical Director

North Dakota Department of Corrections and Rehabilitation
Presenting Testimony on House Bill 1106
Wednesday March 4, 2015

Good morning Mr. Chairman and members of the committee. My name is Lisa Peterson. I am a licensed psychologist and Clinical Director of the Department of Corrections and Rehabilitation. I am here on behalf of the Department of Corrections and Rehabilitation to provide testimony in support of House Bill 1106.

Data over the last two years suggest that approximately 10% of the DOCR's inmate population reported a history of military service. The majority of these individuals reported prior Army (40%) and National Guard (25%) service. Fifty percent of this group has an active substance use disorder diagnosis, five percent have been identified as meeting criteria for Posttraumatic Stress Disorder (PTSD), and 15 percent have been diagnosed with a severe mental illness. The prevalence rates of problematic substance abuse and severe mental illness are much higher than in the general population, while the rate of PTSD mirrors the lifetime prevalence rate for adult males nationwide.

One of the tasks of the Department of Corrections and Rehabilitation is to evaluate offenders on a variety of risk factors research has shown to be predictive of future criminal behavior. In this vein, we use the Levels of Service Inventory, Revised (LSI-R), an actuarial assessment tool, to determine which offenders are more and less likely to commit another crime. Research has shown that correctional programs are more effective when they focus on moderate and high risk offenders. In fact, incarcerating low risk offenders and treating them in prison environments can actually increase the likelihood that they will recidivate. Ensuring that our current and former service members have access to pre-sentence investigation services will allow DOCR staff to effectively identify those who are low risk and could be better served through alternatives to incarceration. The average LSI-R score of our current incarcerated service member population is a 27, which represents a moderate risk for re-offense and places the individual within a group of offenders whose average rate of re-offense is 48 percent. That said, it is anticipated that a significant number of incarcerated service members and those sentenced to a term of probation would fall into the moderate-low and low risk categories and could be effectively served through alternatives to incarceration.

3-2

The interaction of behavioral health disorders and criminal recidivism is complex and no clear causal link has been found between mental health status and criminality. We do know, however, that some people would stop committing crimes if their behavioral health problems were to be effectively treated. Another benefit of providing pre-sentence investigation services to current and former members of the Armed Services is to identify individuals who would likely cease to engage in criminal behavior upon stabilization of their mental health or successful treatment of substance abuse from those who might require further interventions to treat other crime-producing risk factors. In fact, recommending a pre-sentence investigation is a good idea any time there is evidence to suggest a defendant suffers from significant behavioral health problems.

On behalf of the North Dakota Department of Corrections and Rehabilitation, we see this as a positive step to assist our current and former service members, and request a "Do Pass" on House Bill 1106.

This concludes my testimony and I would be happy to answer any questions you may have.

2

2

HB 1106

3/4/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1106

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of issues relating to criminal defendants who are veterans or who are currently serving in the armed forces."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. CRIMINAL JUSTICE ISSUES RELATING TO DEFENDANTS WHO ARE VETERANS OR SERVING IN ARMED FORCES - LEGISLATIVE MANAGEMENT STUDY.

1. The legislative management shall consider studying, during the 2015-16 interim, issues related to criminal defendants who are veterans or who are currently serving in the armed forces, including:
 - a. Whether additional treatment and sentencing options should be considered if a defendant is suspected to have posttraumatic stress disorder or other behavioral health conditions;
 - b. Whether the additional treatment and sentencing options should apply to both misdemeanor and felony offenses and, if applied to misdemeanor offenses, the impact those additional cases would have on the courts and the department of corrections and rehabilitation;
 - c. The point in the criminal proceeding at which the inquiry regarding the defendant's behavioral health condition should be made; and
 - d. What steps the state needs to take to ensure that veterans and other armed forces personnel with posttraumatic stress disorder or other behavioral health conditions are best handled in the state's criminal justice system.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

April 13, 2015

#1
HB 1106
4-14-15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1106

That the Senate recede from its amendments as printed on page 1130 of the House Journal and page 886 of the Senate Journal and that Engrossed House Bill No. 1106 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of issues relating to criminal defendants who are veterans or who are currently serving in the armed forces.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. CRIMINAL JUSTICE ISSUES RELATING TO DEFENDANTS WHO ARE VETERANS OR SERVING IN ARMED FORCES - LEGISLATIVE MANAGEMENT STUDY.

1. The legislative management shall consider studying, during the 2015-16 interim, issues related to criminal defendants who are veterans or who are currently serving in the armed forces, including:
 - a. Whether additional treatment and sentencing options should be considered if a defendant is suspected to have posttraumatic stress disorder or other behavioral health conditions;
 - b. Whether the additional treatment and sentencing options should apply to both misdemeanor and felony offenses and, if applied to misdemeanor offenses, the impact those additional cases would have on the courts and the department of corrections and rehabilitation;
 - c. The point in the criminal proceeding at which the inquiry regarding the defendant's behavioral health condition should be made;
 - d. What actions are being taken by other states' judicial and criminal justice systems to address similar issues regarding criminal defendants who are veterans or who are currently serving in the armed forces; and
 - e. What steps the state needs to take to ensure that veterans and other armed forces personnel with posttraumatic stress disorder or other behavioral health conditions are best handled in the state's criminal justice system.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly