



## SUPERIOR COURT, COUNTY OF CONTRA COSTA Military Diversion Program (Penal Code Section 1001.80)

### Statutory Overview of Military Diversion Program, Penal Code Section 1001.80:

The military diversion program, codified in Penal Code Section 1001.80<sup>1</sup>, which went into effect on January 1, 2015, establishes a pretrial diversion program for current and former members of the United States military who may be suffering from post-traumatic stress disorder [PTSD], traumatic brain injury [TBI], sexual trauma, substance abuse or mental health problems as a result of their military service. For a person covered by the statute, the Court may place the person in a pretrial diversion program. These procedural guidelines provide guidance on the procedures followed by the Contra Costa Superior Court when addressing defendants who may fall under the statute.

- The defendant must consent and waive time. (Subd. (b).)
- If the Court places the defendant in a pretrial diversion program, and he or she performs satisfactorily during the period of diversion, the criminal charges will be dismissed. (Subd. (c).) The period of diversion “*shall be no longer than two years.*” (Subd. (h).) During the period of diversion, the service provider must provide reports to the court and parties “*not less than every six months.*” If the defendant is performing “*unsatisfactorily*” or “*is not benefitting from the treatment and services provided,*” the Court shall hold a hearing and determine if diversion should end and criminal proceedings resume. (Subd. (c).)
- If the Court decides to divert a defendant, the Court is required to assess the defendant and determine whether he or she should be ordered to participate in federal or community-based treatment programs with a demonstrated history of treating the range of mental health problems covered by the statute. (Subd. (e).) Preference is given to programs that have a demonstrated history of successfully treating veterans. (Subd. (f).)
- If a defendant successfully completes the diversion program, “*the arrest upon which the diversion was based shall be deemed never to have occurred.*” (Subd. (i).) But there is an exception permitting disclosure if the person applies for a job as a peace officer. (Subd. (j).)

### RESOURCES GUIDE

The purpose of this Resources Guide is to provide defendants and/or their counsel with resources that may be able to assist in assessing whether the defendant is eligible to be considered for diversion. These resources are not exhaustive or exclusive. Defendants and/or their counsel may seek to establish eligibility through other organizations, agencies or means. A determination that a defendant meets the

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<sup>1</sup> All future statutory references are to Penal Code Section 1001.80.

criteria for eligibility by any person, agency or organization, including those listed below, is not binding on the Court.

**DD-214 – Certificate of Release or Discharge from Active Duty:**

A Report of Separation is generally issued when a service member performs active duty or at least 90 consecutive days of active duty training. The Report of Separation contains information normally needed to verify United States military service, eligibility for healthcare, benefits, retirement, employment and membership in veterans' organizations. If you have already established Veterans Administration (VA) healthcare eligibility and registered for VA services, skip this step and proceed to contact the VA per instruction below.

The DD-214 or other Report of Separation can be obtained from:

- United States National Archives and Records Administration  
<http://www.archives.gov/veterans/military-service-records>
- For urgent requests from National Archives, fax completed SF 180 to (314) 801-0764; Urgent Request Customer Service Phone: (314) 801-0800
- Contra Costa County Veterans Services Office  
10 Douglas Drive, Suite 100  
Martinez, CA 94553  
(925) 313-1481

**For in-person VA eligibility and registration assistance, contact:**

Tiffany Gaines, (916) 923-4942  
Marcia Rausa, (925) 370-4177  
V.A. Northern California Health Care System  
Benefits and Data Management Service  
150 Muir Road  
Martinez, CA 94553  
V21MACeligibilityEnrollment2@va.gov

**United States Veterans Administration Healthcare System:**

Once registered for healthcare, eligible veterans may seek mental health evaluation and services through the VA healthcare system. With a signed release for medical information, the provider may be able to provide the defendant with a written assessment of his or her condition and a suggested treatment plan.

Mental health evaluation and services from the VA can be obtained from:

- Contacting your existing VA mental health provider for an appointment
- If new to VA mental health services, contact:

Jennifer Lewis or Marlo Narro  
Mental Health Triage Social Workers  
V.A. Northern California Health Care System  
Martinez Outpatient Behavioral Health Services  
150 Muir Road  
Martinez, CA 94553  
(925) 372-2105