

REPRESENTATIVE LES GARA

(907) 465-2647 | State Capitol Building, Room 400 | <http://www.replesgara.com>

HB313

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Statement

House Bill 313 "Mitigating Factor: Combat-Related PTSD"

"Creating a Mitigating Factor Related to Combat-Related Post-Traumatic Stress Disorder and Traumatic Brain Injury"

Many veterans have served honorably under extreme hardship, and our nation has a long tradition of according honor to veterans in recognition of their service, especially for those who fought on the front lines. Upon being discharged, and after returning home, many former soldiers begin to suffer the symptoms of combat-related post-traumatic stress disorder (PTSD), including nightmares, hyper-vigilance, the inability to sleep, and depression, as well as combat-related traumatic brain injury (TBI). The symptoms of PTSD are pervasive and cause disruption in many phases of life. The condition can last for years unless treated.

Under Alaska's sentencing statute, a judge considering a sentence for a person convicted of a felony is allowed to consider certain statutorily-created mitigating factors to reduce a sentence below a mandatory or minimum required sentence. House Bill 313 would create a new mitigating factor allowing a judge to consider whether the offender's conduct was related to combat-related PTSD or combat-related traumatic brain injury. The offender would have the burden of proving that he or she suffers from combat-related PTSD or combat-related traumatic brain injury resulting from combat with an enemy of the United States while on active duty as a member of the armed forces. The mitigator specifically excludes cases that are crimes of serious injury, so it would not apply to assaultive conduct or sexual crimes.

Combat-related PTSD and substance abuse often go hand in hand. These soldiers sometimes self-medicate by abusing drugs. Many of them should be treated with anti-anxiety medications, but they rarely disclose that they are suffering. Many former soldiers who have committed offenses after serving overseas had no prior criminal record and no substance abuse problems prior to their service. Jail conditions exacerbate the symptoms of PTSD. The soldier becomes even more hyper-vigilant in a jail setting and his or her sleep becomes even more impaired. Thus, jail actively makes the soldier worse, and any rehabilitative function of a jail sentence tends to be ineffective. Allowing the offender to prove that his or her criminal conduct was related to PTSD or traumatic brain injury as a result of service while a member of the United States Armed Forces, would give the sentencing judge the flexibility to fashion a sentence that could require specific treatment for this specific condition.

A handwritten signature in black ink, appearing to read "Les Gara", with a long horizontal flourish extending to the right.

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