



# HOUSE BILL 483: Vet. Posttraumatic Stress/Mitigating Factor.

2017-2018 General Assembly

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<b>Committee:</b>	House Judiciary II	<b>Date:</b>	April 25, 2017
<b>Introduced by:</b>	Reps. G. Martin, Zachary, Reives, Rogers	<b>Prepared by:</b>	Susan Sitze
<b>Analysis of:</b>	Second Edition		Jessica Sammons
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**OVERVIEW:** *House Bill 483 would provide that a court may consider a defendant's diagnosis of posttraumatic stress disorder (PTSD) connected to military service in a combat zone as a specific mitigating factor for the purposes of criminal sentencing.*

[As introduced, this bill was identical to S402, as introduced by Sens. Britt, J. Jackson, which is currently in Senate Rules and Operations of the Senate.]

**CURRENT LAW:** Under structured sentencing, there are three ranges of punishments for felonies: presumptive, aggravated, and mitigated. To determine the range in which to sentence a defendant, the court must consider any evidence of aggravating and mitigating factors present in the offense. The statutory aggravating and mitigating factors are set out in G.S. 15A-1340.16. The court may find the specified statutory factors, or the court may write in additional factors not otherwise provided in law. If the court finds that mitigating factors are present and outweigh any aggravating factors, it may depart from the presumptive range of punishment and impose a term of punishment in the mitigated range. The offender bears the burden of proving by a preponderance of the evidence that a mitigating factor exists.

Related existing mitigating factors include:

- The defendant was suffering from a mental or physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
- The defendant has been honorably discharged from the Armed Forces of the United States.

**BILL ANALYSIS:** House Bill 483 would provide that a court may consider that a defendant is suffering from PTSD resulting from military service as a mitigating factor for purposes of sentencing. To prove this mitigating factor, the defendant must provide evidence that the defendant has done both of the following:

- 1) Served in a combat zone as a member of the United States Armed Forces. Sufficient proof of service consists of either a certification by the Secretary of Military and Veteran Affairs or a Form DD-214.
- 2) Been diagnosed with PTSD connected to his or her military service.

**EFFECTIVE DATE:** This act would become effective October 1, 2017, and apply to offenses committed on or after that date.

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