

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1555

By: Jordan

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7 COMMITTEE SUBSTITUTE

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9 An Act relating to criminal procedure; creating the  
10 Oklahoma Veterans' Treatment Court Act; giving  
11 judicial districts authority to establish Veterans'  
12 Treatment Court program; giving discretion for how  
13 and where the program may be administered; defining  
14 terms; setting guidelines for admission to program;  
15 requiring defendants be asked about veteran status  
16 before arraignment; describing eligibility screening  
17 process for program; requiring eligibility assessment  
18 contain certain elements; exempting assessment  
19 requirements in certain cases; allowing participation  
20 to be revoked; mandating written agreement between  
21 defendant and court; allowing court to order  
22 defendant complete treatment and counseling programs;  
23 excluding defendants charged with or convicted of a  
24 violent felony; excluding defendants unwilling to  
participate; excluding defendants previously  
discharged from program; allowing program to maintain  
network of certain treatment providers; mandating  
that participant has legal counsel before entering  
program; allowing participant to withdraw from  
program within certain time period; providing  
participant with individualized treatment program;  
ensuring program does not continue longer than  
certain time; requiring program to make, establish,  
and publish procedures; describing certain conditions  
for termination from program; allowing court to  
dismiss charges, terminate sentence or discharge  
defendant from proceedings upon program completion;  
providing for codification; providing an effective  
date; and declaring an emergency.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. NEW LAW A new section of law to be codified  
3 in the Oklahoma Statutes as Section 480 of Title 22, unless there is  
4 created a duplication in numbering, reads as follows:

5 This act shall be known and may be cited as the "Oklahoma  
6 Veterans' Treatment Court Act".

7 SECTION 2. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 481 of Title 22, unless there is  
9 created a duplication in numbering, reads as follows:

10 A. The presiding judge of each judicial district may establish  
11 a Veterans' Treatment Court program including a format under which  
12 it operates. At the discretion of the presiding judge, the  
13 Veterans' Treatment Court program may be operated in one county in  
14 the judicial district and allow veteran and servicemember defendants  
15 from all counties within the district to participate.

16 B. The Veterans' Treatment Court program shall work  
17 collaboratively with the United States Department of Veterans  
18 Affairs, and other agencies and other organizations and agencies  
19 with a mission of serving veterans to determine eligibility and  
20 demand for Veterans' Treatment Court services.

21 C. Nothing in this section shall prohibit any county or  
22 municipal court from establishing a Veterans' Treatment Court for  
23 misdemeanor offenses. Such misdemeanor veterans' treatment courts  
24 shall follow the rules and regulations of this act except that the

1 penalty for revocation shall not exceed one (1) year in the county  
2 jail or the maximum penalty for the misdemeanor allowed by statute,  
3 whichever is less.

4 SECTION 3. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 482 of Title 22, unless there is  
6 created a duplication in numbering, reads as follows:

7 As used in the Oklahoma Veterans' Treatment Court Act:

8 1. "Defendant" means any person who has been charged with a  
9 crime and awaits adjudication;

10 2. "Veteran" means a former member of the United States  
11 military including a member of the reserves and National Guard as  
12 defined by the United States Department of Veterans Affairs; and

13 3. "Violent felony" means any criminal offense listed in  
14 paragraphs 1 through 19 in Section 13.1 of Title 21 of the Oklahoma  
15 Statutes.

16 SECTION 4. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 483 of Title 22, unless there is  
18 created a duplication in numbering, reads as follows:

19 A. Admission to the Veterans' Treatment Court shall not be  
20 automatic. The program's appointed judge shall determine whether  
21 the defendant and the defendant's criminal case qualify for the  
22 program. Prior to arraignment, each defendant in the state shall be  
23 asked by an agent of the court whether the defendant is a veteran.

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1 Further, a defendant who claims veteran status may apply for  
2 consideration by completing the screening and referral form.

3 1. The court may order the defendant to submit to an  
4 eligibility screening and an assessment through the United States  
5 Department of Veterans Affairs to determine the defendant's veteran  
6 status.

7 2. The court may order the defendant to submit to an  
8 eligibility screening and mental health and drug and alcohol  
9 screening and assessment of the defendant by a court-designated  
10 evaluator to provide assessment services. The assessment shall  
11 include a risk assessment and be based, in part, upon the known  
12 availability of treatment resources available to the Veterans'  
13 Treatment Court program. The assessment shall also include  
14 recommendations for treatment of the conditions which are indicating  
15 a need for treatment under the monitoring of the court and be  
16 reflective of a level of risk assessed for the individual seeking  
17 admission. An assessment need not be ordered if the court finds a  
18 valid screening or assessment related to the present charge pending  
19 against the defendant has been completed within the previous sixty  
20 (60) days.

21 3. The judge shall inform the defendant that if the defendant  
22 fails to meet the conditions of the Veterans' Treatment Court  
23 program, eligibility to participate in the program may be revoked  
24 and the defendant may be sentenced or the prosecution continued.

1 4. The defendant shall execute a written agreement with the  
2 court as to participation in the program and shall agree to all of  
3 the terms and conditions of the program, including but not limited  
4 to the possibility of sanctions or incarceration for failing to  
5 abide or comply with the terms of the program.

6 5. The court may order the defendant to complete substance  
7 abuse treatment in an outpatient, inpatient, residential, or jail-  
8 based custodial treatment program, order the defendant to complete  
9 mental health counseling in an inpatient or outpatient basis, and  
10 comply with physician recommendations regarding medications and all  
11 follow-up treatment. This treatment may include but is not limited  
12 to posttraumatic stress disorder, traumatic brain injury, depression  
13 and substance abuse treatment.

14 B. A defendant shall be excluded from the Veterans' Treatment  
15 Court program in any of the following scenarios:

16 1. The defendant is currently charged with or has previously  
17 been convicted of a violent felony;

18 2. The defendant does not demonstrate a willingness to  
19 participate in the treatment program; or

20 3. The defendant has previously been discharged from a  
21 Veterans' Treatment Court program for noncompliance due to  
22 misconduct.

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1 C. The court shall have discretion for good cause shown to  
2 consider otherwise ineligible defendants pursuant to subsection B of  
3 this section for admission to the Veterans' Treatment Court program.

4 SECTION 5. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 484 of Title 22, unless there is  
6 created a duplication in numbering, reads as follows:

7 A. The Veterans' Treatment Court program may maintain a network  
8 of substance abuse treatment programs representing a continuum of  
9 graduated substance abuse treatment options commensurate with the  
10 needs of defendants. These may include programs with the Oklahoma  
11 Department of Mental Health and Substance Abuse Services, the United  
12 States Department of Veterans Affairs, and community-based programs  
13 supported and sanctioned by either or both.

14 B. Any substance abuse treatment program to which defendants  
15 are referred shall meet all of the rules and governing programs of  
16 the Veterans' Treatment Court program.

17 C. The Veterans' Treatment Court program may employ additional  
18 services or interventions, as it deems necessary on a case-by-case  
19 basis.

20 D. The Veterans' Treatment Court program may maintain or  
21 collaborate with a network of mental health treatment programs and,  
22 if it is a co-occurring mental health and substance abuse court  
23 program, a network of substance abuse treatment programs  
24 representing a continuum of treatment options commensurate with the

1 needs of the defendant and available resources including programs  
2 with the Department of Mental Health and Substance Abuse Services  
3 and the United States Department of Veterans Affairs.

4 SECTION 6. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 485 of Title 22, unless there is  
6 created a duplication in numbering, reads as follows:

7 A. A Veterans' Treatment Court program established pursuant to  
8 the Oklahoma Veterans' Treatment Court Act shall:

9 1. Ensure a person eligible for the program has legal counsel  
10 before volunteering to proceed through the program and while  
11 participating in the program;

12 2. Allow a participant to withdraw from the program after  
13 thirty (30) days and be reassigned to the traditional docket;

14 3. Provide a participant with a court-ordered individualized  
15 treatment plan indicating the services that will be provided to the  
16 participant; and

17 4. Ensure the jurisdiction of the Veterans' Treatment Court  
18 program continues for a period of not less than six (6) months but  
19 shall not continue beyond the period of community supervision for  
20 the offense charged.

21 B. A Veterans' Treatment Court program established under this  
22 act shall make, establish, and publish local procedures.

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1 SECTION 7. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 486 of Title 22, unless there is  
3 created a duplication in numbering, reads as follows:

4 A. If the Veterans' Treatment Court program finds from the  
5 evidence presented, including but not limited to the reports or  
6 proffers of proof from the Veterans' Treatment Court professionals  
7 that:

8 1. The defendant is not performing satisfactorily in the  
9 assigned programs;

10 2. The defendant is not benefitting from education, treatment,  
11 or rehabilitation;

12 3. The defendant has engaged in criminal conduct rendering the  
13 defendant unsuitable for the program; or

14 4. The defendant has otherwise violated the terms and  
15 conditions of the program or the sentence, or is for any reason  
16 unable to participate, the court may impose reasonable sanctions  
17 under prior written agreement of the defendant, including but not  
18 limited to imprisonment or dismissal of the defendant from the  
19 program, and the court may reinstate criminal proceedings against  
20 the defendant or proceed with a violation of probation, conditional  
21 discharge, or revocation hearing.

22 B. Upon successful completion of the terms and conditions of  
23 the program, the court may dismiss and expunge the original charges  
24 against the defendant or successfully terminate the defendant's

1 sentence or otherwise discharge the defendant from any further  
2 proceedings in the original prosecution.

3 SECTION 8. This act shall become effective July 1, 2011.

4 SECTION 9. It being immediately necessary for the preservation  
5 of the public peace, health and safety, an emergency is hereby  
6 declared to exist, by reason whereof this act shall take effect and  
7 be in full force from and after its passage and approval.

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