

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1222

By: Simpson, Allen, Garrison,
Johnson (Constance),
Ivester and David of the
Senate

6 and

7 Hardin of the House
8

9
10 COMMITTEE SUBSTITUTE

11 [veterans - veterans court - codification -
12 noncodification - effective date -

13 emergency]
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17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law not to be
19 codified in the Oklahoma Statutes reads as follows:

20 The Legislature finds that:

21 1. Historically, the State of Oklahoma has honored and takes
22 great pride in the noble sacrifices that members of the military
23 have made to protect our freedoms and way of life. Without
24 hesitation, the sons and daughters of Oklahoma have answered the

1 call to arms to defend our nation. Not only have Oklahomans fought
2 courageously in battle, but have also served honorably in peacetime;

3 2. Studies have shown that military service may exact a
4 tremendous psychological toll on members of the military who are
5 faced with the constant threat of death or injury over an extended
6 period of time;

7 3. Researchers have shown that members of the military who have
8 served our country may suffer, as a result of their military
9 service, mental health injuries such as post-traumatic stress
10 disorder, traumatic brain injury, depression, anxiety, and acute
11 stress disorder;

12 4. Such service-related injuries, including the use of drugs
13 and alcohol to cope with such injuries, can lead to encounters with
14 the criminal justice system;

15 5. While the vast majority of members of the military do not
16 have contact with the criminal justice system, and most veterans and
17 members of the military are well-adjusted, contributing members of
18 society, psychiatrists and law enforcement officials agree that
19 injuries incurred in the military and military stressors have led to
20 instances of criminality; and

21 6. As a grateful state, we must continue to honor the military
22 service of our men and women by providing them with an alternative
23 to incarceration, when feasible, and permitting them instead to
24 access proper treatment for mental health or substance abuse

1 problems resulting from military service. In order to achieve this
2 end, the Legislature encourages the establishment of Veterans'
3 Treatment Programs to address the unique challenges veterans and
4 service members face as a result of their service.

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

8 A. This section shall be known and may be cited as the
9 "Corporal Matthew Steiner Oklahoma Veterans' Treatment Act".

10 B. Any district or municipal court of this state may establish
11 a Veterans' Treatment Program pursuant to the provisions of this
12 section.

13 C. For purposes of this section:

14 1. "Oklahoma Veterans' Treatment Program" means a judicial
15 process that utilizes specially trained court personnel to expedite
16 the case and explore alternatives to incarceration for veterans or
17 service members charged with criminal offenses who are in need of
18 treatment for post-traumatic stress disorder (PTSD), traumatic brain
19 injury (TBI), mental health issues, or substance abuse treatment;

20 2. "Veteran" means any former member of the United States
21 military including a member of the reserves and National Guard as
22 defined by the United States Department of Veterans Affairs; and
23
24

1 3. "Service member" means any current or reserve member of the
2 United States Armed Forces including a member of the reserves or
3 National Guard.

4 D. The jurisdiction may request assistance from the Department
5 of Mental Health and Substance Abuse Services, the United States
6 Department of Veterans Affairs, or other community-based programs
7 and agencies to assist in developing and implementing a Veterans'
8 Treatment Program and to obtain the necessary treatment services
9 which will assure maximum opportunity for successful treatment,
10 education and rehabilitation for offenders admitted to the program.
11 Funding for Veterans' Treatment Programs may come from contracts
12 with the Department of Mental Health and Substance Abuse Services,
13 as funds are available, through funds budgeted for alternative
14 courts, substance abuse treatment, or mental health treatment, the
15 Oklahoma Department of Veterans Affairs, grants or any other private
16 or public monies.

17 E. Any offender currently charged with or convicted of any
18 offense listed in Section 13.1 of Title 21 and/or Section 571 of
19 Title 57 of the Oklahoma Statutes in this state or another state is
20 not eligible for the program. An offender who has previously
21 completed or has been discharged from a Veterans' Treatment Program
22 within the last three (3) years is not eligible for the program.
23 Eligibility and entry by an offender into the Veterans' Treatment
24 Program is dependent upon approval of the district attorney.

1 Traditional prosecution shall be required where an offender is
2 determined not appropriate for the Veterans' Treatment Program.
3 Nothing in this section affects the district attorney's existing
4 authority to amend any charge.

5 F. The prosecutor shall staff each applicant with the Veterans'
6 Program team or coordinator prior to determining eligibility and
7 entry. The program team or coordinator will provide the prosecutor
8 with all assessments and clinical evaluations completed and inform
9 the prosecutor as to the defendant's military service and mental
10 health or substance abuse issues, including any evidence of PTSD or
11 TBI. The team or coordinator will make a recommendation to the
12 prosecutor as to whether the applicant is appropriate for the
13 Veterans' Treatment Program. The district attorney shall make the
14 final determination as to eligibility and entry, and shall consider
15 the recommendation of the team or coordinator along with the
16 prosecutor's assessment as to whether the safety of the victim and
17 the community can be reasonably assured.

18 G. The offender must voluntarily agree to waive the right to a
19 speedy trial and waive the right to a preliminary hearing. At the
20 time an offender is admitted to the Veterans' Treatment Program, any
21 bail or undertaking on behalf of the offender shall be exonerated.

22 H. The disposition of the case shall be as specified in the
23 written plea agreement which sets forth the penalty to be imposed
24 for the offense in the event of termination or voluntary withdrawal

1 from the program, and the penalty to be imposed, if any, in the
2 event of a successful completion of the program.

3 1. When an offender successfully completes the Veterans'
4 Treatment Program, the criminal case against the offender may be:

5 a. dismissed if the offense was a first felony offense,
6 or

7 b. if the offender had a prior felony conviction, the
8 disposition shall be as specified in the written plea
9 agreement. The district attorney may dismiss the case
10 or offer a disposition including reduction to a
11 misdemeanor, a deferred sentence or a suspended
12 sentence. Any statutory preclusion or prohibition on
13 offering such dispositions on a plea agreement shall
14 be waived for those who successfully complete the
15 Veterans' Treatment Program.

16 2. The court shall not amend the written plea agreement after
17 an offender has been admitted to the Veterans' Treatment Program.

18 I. Nothing in this act shall preclude the establishment of a
19 Veterans' Treatment Program from utilizing a deferred prosecution
20 program as authorized by Sections 305.1 through 305.6 of Title 22 of
21 the Oklahoma Statutes.

22 J. Nothing in this act shall prohibit any county or municipal
23 court from establishing a Veterans' Treatment Program for
24 misdemeanor offenses.

1 K. Nothing in this act shall prohibit the transfer of the case
2 or supervision of a veteran or service member from a county without
3 a Veterans' Treatment Program to one with such a program. The
4 transfer of the case shall be made pursuant to an order of the
5 district court in the jurisdiction where the case was originally
6 filed.

7 L. The defendant shall execute a written agreement to
8 participate in the program and shall agree to all the terms and
9 conditions of the program, including, but not limited to, the
10 possibility of sanctions or incarceration for failing to comply with
11 the terms of the program.

12 1. If the Veterans' Treatment Program team finds that the
13 defendant is not following the agreed rules and conditions or that
14 the defendant has engaged in further criminal conduct, the team may
15 request that the court impose reasonable sanctions, including, but
16 not limited to, termination from the program.

17 2. The Veterans' Treatment Program court shall recognize
18 relapses and restarts in the program which are considered to be part
19 of the rehabilitation and recovery process. The court shall
20 accomplish monitoring and offender accountability by ordering
21 progressively increasing sanctions or providing incentives, rather
22 than removing the offender from the program when relapse occurs,
23 except when the offender's conduct requires revocation from the
24 program. Any revocation from the Veterans' Treatment Program shall

1 require notice to the offender and other participating parties in
2 the case and a revocation hearing. At the revocation hearing, if
3 the offender is found to have violated the conditions of the plea
4 agreement or performance contract and disciplinary sanctions have
5 been insufficient to gain compliance, the offender shall be revoked
6 from the program and sentenced for the offense as provided in the
7 plea agreement.

8 M. The court may order the defendant to participate in
9 treatment as recommended. This treatment may include, but is not
10 limited to, post-traumatic stress disorder treatment, traumatic
11 brain injury treatment, mental health or substance abuse treatment.

12 N. The period of time which an offender may participate in the
13 active treatment portion of the Veterans' Treatment Program shall
14 not exceed thirty-six (36) months.

15 O. The Veterans' Treatment Program judge may order the offender
16 to pay court costs, treatment costs, drug-testing costs, a program
17 user fee not to exceed Twenty Dollars (\$20.00) per month, and
18 necessary supervision fees, unless the offender is indigent.

19 P. Notwithstanding any other provision of law, if the driving
20 privileges of the offender have been suspended, revoked, cancelled
21 or denied by the Department of Public Safety and if the Veterans'
22 Treatment Program court determines that no other means of
23 transportation for the offender is available, the court may enter a
24 written order requiring the Department of Public Safety to stay any

1 and all such actions against the Class D driving privileges of the
2 offender; provided, the stay shall not be construed to grant driving
3 privileges to an offender who has not been issued a driver license
4 by the Department or whose Oklahoma driver license has expired, in
5 which case the offender shall be required to apply for and be found
6 eligible for a driver license, pass all examinations, if applicable,
7 and pay all statutory driver license issuance or renewal fees. The
8 offender shall provide proof of insurance to the court prior to the
9 court ordering a stay of any driver license suspension, revocation,
10 cancellation or denial. When a court of a Veterans' Treatment
11 Program enters a stay against an order by the Department of Public
12 Safety suspending or revoking the driving privileges of an offender,
13 the time period set in the order by the Department for the
14 suspension or revocation shall continue to run during the stay.

15 SECTION 3. This act shall become effective July 1, 2012.

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

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21 53-2-10314 GRS 04/10/12

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