

1 **SENATE FLOOR VERSION**

2 March 1, 2012

3 COMMITTEE SUBSTITUTE
4 FOR
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 [veterans - veterans court - codification -
11 noncodification - effective date -
emergency]

12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

16 The Legislature finds that:

17 1. Historically, the State of Oklahoma has honored and takes
18 great pride in the noble sacrifices that members of the military
19 have made to protect our freedoms and way of life. Without
20 hesitation, the sons and daughters of Oklahoma have answered the
21 call to arms to defend our nation. Not only have Oklahomans fought
22 courageously in battle, but have also served honorably in peacetime;

23 2. Studies have shown that military service may exact a
24 tremendous psychological toll on members of the military who are

1 faced with the constant threat of death or injury over an extended
2 period of time;

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

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

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

17 6. As a grateful state, we must continue to honor the military
18 service of our men and women by providing them with an alternative
19 to incarceration, when feasible, and permitting them instead to
20 access proper treatment for mental health or substance abuse
21 problems resulting from military service. In order to achieve this
22 end, the Legislature encourages the establishment of Veterans'
23 Treatment Programs to address the unique challenges veterans and
24 service members face as a result of their service.

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

4 A. This section shall be known and may be cited as the
5 "Oklahoma Veterans' Treatment Act".

6 B. Any district or municipal court of this state may establish
7 a Veterans' Treatment Program pursuant to the provisions of this
8 section.

9 C. For purposes of this section:

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

16 2. "Veteran" means any former member of the United States
17 military including a member of the reserves and National Guard as
18 defined by the United States Department of Veterans Affairs; and

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

22 D. The jurisdiction may request assistance from the Oklahoma
23 Department of Mental Health and Substance Abuse Services, the United
24 States Department of Veterans Affairs, or other community-based

1 programs and agencies to assist in developing and implementing a
2 Veterans' Treatment Program and to obtain the necessary treatment
3 services which will assure maximum opportunity for successful
4 treatment, education and rehabilitation for offenders admitted to
5 the program. Funding for Veterans' Treatment Programs shall come
6 from the Department of Mental Health through funds budgeted for
7 alternative courts, substance abuse treatment, or mental health
8 treatment, the Department of Veterans Affairs, grants or any other
9 private or public monies.

10 E. Any offender currently charged with or convicted of any
11 offense listed in Section 13.1 of Title 21 and/or Section 571 of
12 Title 57 of the Oklahoma Statutes in this state or another state
13 within the last ten (10) years is not eligible for the program. An
14 offender who has previously completed or has been discharged from a
15 Veterans' Treatment Program within the last three (3) years is not
16 eligible for the program. Eligibility and entry by an offender into
17 the Veterans' Treatment Program is dependent upon approval of the
18 district attorney. Traditional prosecution shall be required where
19 an offender is determined not appropriate for the Veterans'
20 Treatment Program. Nothing in this section affects the district
21 attorney's existing authority to amend any charge.

22 F. The prosecutor shall staff each applicant with the Veterans'
23 Program team or coordinator prior to determining eligibility and
24 entry. The program team or coordinator will provide the prosecutor

1 with all assessments and clinical evaluations completed and inform
2 the prosecutor as to the defendant's military service and mental
3 health or substance abuse issues, including any evidence of PTSD or
4 TBI. The team or coordinator will make a recommendation to the
5 prosecutor as to whether the applicant is appropriate for the
6 Veterans' Treatment Program. The district attorney shall make the
7 final determination as to eligibility and entry, and shall consider
8 the recommendation of the team or coordinator along with the
9 prosecutor's assessment as to whether the safety of the victim and
10 the community can be reasonably assured.

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

15 H. The disposition of the case shall be as specified in the
16 written plea agreement which sets forth the penalty to be imposed
17 for the offense in the event of termination or voluntary withdrawal
18 from the program, and the penalty to be imposed, if any, in the
19 event of a successful completion of the program.

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

22 a. dismissed if the offense was a first felony offense,
23 or
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1 b. if the offender had a prior felony conviction, the
2 disposition shall be as specified in the written plea
3 agreement. The district attorney may dismiss the case
4 or offer a disposition including reduction to a
5 misdemeanor, a deferred sentence or a suspended
6 sentence. Any statutory preclusion or prohibition on
7 offering such dispositions on a plea agreement shall
8 be waived for those who successfully complete the
9 Veterans' Treatment Program.

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

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

16 J. Nothing in this act shall prohibit any county or municipal
17 court from establishing a Veterans' Treatment Program for
18 misdemeanor offenses.

19 K. Nothing in this act shall prohibit the transfer of the case
20 or supervision of a Veteran or Service Member from a county without
21 a Veterans' Treatment Program to one with such a program. The
22 transfer must be approved by the district attorney and the court in
23 both jurisdictions.

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

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

11 2. The Veterans' Treatment Program court shall recognize
12 relapses and restarts in the program which are considered to be part
13 of the rehabilitation and recovery process. The court shall
14 accomplish monitoring and offender accountability by ordering
15 progressively increasing sanctions or providing incentives, rather
16 than removing the offender from the program when relapse occurs,
17 except when the offender's conduct requires revocation from the
18 program. Any revocation from the Veterans' Treatment Program shall
19 require notice to the offender and other participating parties in
20 the case and a revocation hearing. At the revocation hearing, if
21 the offender is found to have violated the conditions of the plea
22 agreement or performance contract and disciplinary sanctions have
23 been insufficient to gain compliance, the offender shall be revoked

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1 from the program and sentenced for the offense as provided in the
2 plea agreement.

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

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

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

14 P. Notwithstanding any other provision of law, if the driving
15 privileges of the offender have been suspended, revoked, cancelled
16 or denied by the Department of Public Safety and if the Veterans'
17 Treatment Program court determines that no other means of
18 transportation for the offender is available, the court may enter a
19 written order requiring the Department of Public Safety to stay any
20 and all such actions against the Class D driving privileges of the
21 offender; provided, the stay shall not be construed to grant driving
22 privileges to an offender who has not been issued a driver license
23 by the Department or whose Oklahoma driver license has expired, in
24 which case the offender shall be required to apply for and be found

1 eligible for a driver license, pass all examinations, if applicable,
2 and pay all statutory driver license issuance or renewal fees. The
3 offender shall provide proof of insurance to the court prior to the
4 court ordering a stay of any driver license suspension, revocation,
5 cancellation or denial. When a court of a Veterans' Treatment
6 Program enters a stay against an order by the Department of Public
7 Safety suspending or revoking the driving privileges of an offender,
8 the time period set in the order by the Department for the
9 suspension or revocation shall continue to run during the stay.

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-29-12 - DO
16 PASS, As Amended and Coauthored.

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