

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1555

By: Jordan

4
5 AS INTRODUCED

6 An Act relating to criminal procedure; creating the
7 Oklahoma Veterans' Treatment Court Act; stating
8 purposes of act; giving judicial districts authority
9 to establish Veterans' Treatment Court program;
10 giving discretion for how and where the program may
11 be administered; defining terms; setting guidelines
12 for admission to program; requiring defendants be
13 asked about veteran status before arraignment;
14 describing eligibility screening process for program;
15 requiring eligibility assessment contain certain
16 elements; exempting assessment requirements in
17 certain cases; allowing participation to be revoked;
18 mandating written agreement between defendant and
19 court; requiring defendant to enter certain plea upon
20 admittance to program; allowing court to order
21 defendant complete treatment and counseling programs;
22 excluding defendants charged with or convicted of a
23 violent felony; excluding defendants unwilling to
24 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 at any time; 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 The people of the State of Oklahoma recognize that veterans and
11 active reserve and National Guard service members have provided or
12 are currently providing an invaluable service to our country. In so
13 doing, some may suffer the effects of posttraumatic stress disorder,
14 traumatic brain injury, and depression and may also suffer drug and
15 alcohol dependency or addiction and co-occurring mental illness and
16 substance abuse problems. As a result of this, some veterans or
17 active duty service members come into contact with the criminal
18 justice system and are charged with felony or misdemeanor offenses.
19 There is a critical need for the criminal justice system to
20 recognize these veterans, provide accountability for their
21 wrongdoing, provide for the safety of the public and provide for the
22 treatment of our veterans. It is the intent of the people of the
23 State of Oklahoma to create specialized veteran treatment courts or

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1 programs with the necessary flexibility to meet the specialized
2 problems faced by these veteran and service member defendants.

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

6 The presiding judicial body of each judicial district may
7 establish a Veterans' Treatment Court program including a format
8 under which it operates. The Veterans' Treatment Court may, at the
9 discretion of the presiding judicial district body, be a separate
10 court or a program of a drug court within the district. At the
11 discretion of the presiding judicial district body, the Veterans'
12 Treatment Court program may be operated in one county in the
13 district and allow veteran and service member defendants from all
14 counties within the district to participate.

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

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

- 19 1. "Defendant" means any person who has been charged with a
20 crime and awaits adjudication;
- 21 2. "Department" means the Oklahoma Department of Veterans
22 Affairs;

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1 3. "Service member" means any person who is currently serving
2 in any branch of the United States military on active duty, reserve
3 status, or in the National Guard;

4 4. "Veteran" means a former member of the United States
5 military including a member of the reserves and National Guard or a
6 current member of the military who has served in a combat zone as
7 defined by the Oklahoma Department of Veterans Affairs; and

8 5. "Violent felony" means:

9 a. first degree murder as defined in Section 701.7 of
10 Title 21 of the Oklahoma Statutes,

11 b. second degree murder as defined in Section 701.8 of
12 Title 21 of the Oklahoma Statutes,

13 c. first degree manslaughter as defined in Section 711 of
14 Title 21 of the Oklahoma Statutes,

15 d. poisoning with intent to kill as defined in Section
16 651 of Title 21 of the Oklahoma Statutes,

17 e. shooting with intent to kill, assault and battery with
18 a deadly weapon, or by other means likely to produce
19 death or great bodily harm as defined in Section 652
20 of Title 21 of the Oklahoma Statutes,

21 f. assault with intent to kill as defined in Section 653
22 of Title 21 of the Oklahoma Statutes,

23 g. conjoint robbery as defined in Section 800 of Title 21
24 of the Oklahoma Statutes,

- 1 h. robbery with a dangerous weapon as defined in Section
2 801 of Title 21 of the Oklahoma Statutes,
3 i. first degree robbery as defined in Section 797 of
4 Title 21 of the Oklahoma Statutes,
5 j. first degree rape as defined in Section 1115 of Title
6 21 of the Oklahoma Statutes,
7 k. first degree arson as defined in Section 1401 of Title
8 21 of the Oklahoma Statutes,
9 l. first degree burglary as defined in Section 1436 of
10 Title 21 of the Oklahoma Statutes,
11 m. bombing as defined in Section 1767.1 of Title 21 of
12 the Oklahoma Statutes,
13 n. any crime against a child as defined in Section 843.5
14 of Title 21 of the Oklahoma Statutes,
15 o. forcible sodomy as defined in Section 888 of Title 21
16 of the Oklahoma Statutes,
17 p. child pornography as defined in Sections 1021.2,
18 1021.3, or 1021.4 of Title 21 of the Oklahoma
19 Statutes,
20 q. child prostitution as defined in Section 1030 of Title
21 21 of the Oklahoma Statutes,
22 r. lewd or indecent proposals to a child as defined in
23 Section 1123 of Title 21 of the Oklahoma Statutes, or
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1 s. abuse of a vulnerable adult as defined in Section 10-
2 103 of Title 43A of the Oklahoma Statutes who is a
3 resident of a nursing facility.

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. Admission to the Veterans' Treatment Court shall not be
8 automatic. The program's appointed judge shall determine whether
9 the defendant and the defendant's criminal case qualify for the
10 program. Prior to arraignment, each defendant in the state shall be
11 asked by an agent of the court whether the defendant is a veteran.
12 Further, a defendant who claims veteran status may apply for
13 consideration by completing the screening and referral form.

14 1. The court may order the defendant to submit to an
15 eligibility screening and an assessment through the Oklahoma
16 Department of Veterans Affairs to provide information on the
17 defendant's veteran or service member status.

18 2. The court may order the defendant to submit to an
19 eligibility screening and mental health and drug and alcohol
20 screening and assessment of the defendant by the Department or
21 court-designated evaluator to provide assessment services. The
22 assessment shall include a risk assessment and be based, in part,
23 upon the known availability of treatment resources available to the
24 Veterans' Treatment Court program. The assessment shall also

1 include recommendations for treatment of the conditions which are
2 indicating a need for treatment under the monitoring of the court
3 and be reflective of a level of risk assessed for the individual
4 seeking admission. An assessment need not be ordered if the court
5 finds a valid screening or assessment related to the present charge
6 pending against the defendant has been completed within the previous
7 sixty (60) days.

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

12 4. The defendant shall execute a written agreement with the
13 court as to participation in the program and shall agree to all of
14 the terms and conditions of the program, including but not limited
15 to the possibility of sanctions or incarceration for failing to
16 abide or comply with the terms of the program. Upon admittance to
17 the program, the defendant must enter a plea of guilty or nolo
18 contendere.

19 5. The court may order the defendant to complete substance
20 abuse treatment in an outpatient, inpatient, residential, or jail-
21 based custodial treatment program, order the defendant to complete
22 mental health counseling in an inpatient or outpatient basis, and
23 comply with physician recommendations regarding medications and all
24 follow-up treatment. This treatment may include but is not limited

1 to posttraumatic stress disorder, traumatic brain injury, and
2 depression.

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

5 1. The defendant is charged with or has been convicted of a
6 violent felony;

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

9 3. The defendant has previously been discharged from a
10 Veterans' Treatment Court program for noncompliance due to
11 misconduct.

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

15 A. The Veterans' Treatment Court program may maintain a network
16 of substance abuse treatment programs representing a continuum of
17 graduated substance abuse treatment options commensurate with the
18 needs of defendants. These may include programs with the Oklahoma
19 Department of Veterans Affairs, the United States Department of
20 Veterans Affairs, and community-based programs supported and
21 sanctioned by either or both.

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

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

4 D. The Veterans' Treatment Court program may maintain or
5 collaborate with a network of mental health treatment programs and,
6 if it is a co-occurring mental health and substance abuse court
7 program, a network of substance abuse treatment programs
8 representing a continuum of treatment options commensurate with the
9 needs of the defendant and available resources including programs
10 with the Oklahoma Department of Veterans Affairs and the United
11 States Department of Veterans Affairs.

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

15 A. A Veterans' Treatment Court program established pursuant to
16 the Oklahoma Veterans' Treatment Court Act shall:

17 1. Ensure a person eligible for the program is provided legal
18 counsel before volunteering to proceed through the program and while
19 participating in the program;

20 2. Allow a participant to withdraw from the program at any
21 time;

22 3. Provide a participant with a court-ordered individualized
23 treatment plan indicating the services that will be provided to the
24 participant; and

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

5 B. A Veterans' Treatment Court program established under this
6 act shall make, establish, and publish local procedures to ensure
7 maximum participation of eligible defendants in the county where the
8 defendant resides.

9 SECTION 8. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 487 of Title 22, unless there is
11 created a duplication in numbering, reads as follows:

12 A. If the Veterans' Treatment Court program finds from the
13 evidence presented, including but not limited to the reports or
14 proffers of proof from the Veterans' Treatment Court professionals
15 that:

16 1. The defendant is not performing satisfactorily in the
17 assigned programs;

18 2. The defendant is not benefitting from education, treatment,
19 or rehabilitation;

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

22 4. The defendant has otherwise violated the terms and
23 conditions of the program or the sentence, or is for any reason
24 unable to participate,

1 the court may impose reasonable sanctions under prior written
2 agreement of the defendant, including but not limited to
3 imprisonment or dismissal of the defendant from the program, and the
4 court may reinstate criminal proceedings against the defendant or
5 proceed with a violation of probation, conditional discharge, or
6 supervision hearing.

7 B. Upon successful completion of the terms and conditions of
8 the program, the court may dismiss the original charges against the
9 defendant or successfully terminate the defendant's sentence or
10 otherwise discharge the defendant from any further proceedings in
11 the original prosecution.

12 SECTION 9. This act shall become effective July 1, 2011.

13 SECTION 10. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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