

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1222

By: Simpson

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5
6 AS INTRODUCED

7 An Act relating to veterans' treatment programs;
8 stating legislative findings; providing short title;
9 authorizing creation of certain treatment program;
10 defining terms; directing development and
11 implementation of certain program; specifying funding
12 source for certain program; establishing eligibility
13 requirements for certain program; establishing duties
14 and responsibilities of certain team or coordinator;
15 requiring certain waivers; directing disposition of
16 certain case; prohibiting amendment of certain
17 agreement; construing provisions; requiring execution
18 of certain written agreement; authorizing sanctions
19 under certain circumstances; establishing procedures
20 for relapse and revocation; authorizing order for
21 participation in certain treatment; providing time
22 limitation for certain program; authorizing order for
23 payment of certain fees and costs; authorizing
24 certain orders related to driving privileges;
providing for codification; providing for
noncodification; providing an effective date; and
declaring an emergency.

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

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

The Legislature finds that:

1 A. Historically, the State of Oklahoma has honored and takes
2 great pride in the noble sacrifices that members of the military
3 have made to protect our freedoms and way of life. Without
4 hesitation, the sons and daughters of Oklahoma have answered the
5 call to arms to defend our nation. Not only have Oklahomans fought
6 courageously in battle, but have also served honorably in peacetime.

7 B. Studies have shown that military service may exact a
8 tremendous psychological toll on members of the military who are
9 faced with the constant threat of death or injury over an extended
10 period of time.

11 C. Researchers have shown that members of the military who have
12 served our country may suffer, as a result of their military
13 service, mental health injuries such as post-traumatic stress
14 disorder, traumatic brain injury, depression, anxiety, and acute
15 stress disorder.

16 D. Such service-related injuries, including the use of drugs
17 and alcohol to cope with such injuries, can lead to encounters with
18 the criminal justice system.

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

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

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

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

14 B. Any district or municipal court of this state may establish
15 a Veterans' Treatment Program pursuant to the provisions of this
16 section.

17 C. For purposes of this section:

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

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

4 3. "Service Member" means any current or reserve member of the
5 United States Armed Forces including a member of the reserves or
6 National Guard.

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

19 E. Any offender currently charged with or convicted of any
20 offense listed in Section 13.1 of Title 21 of the Oklahoma Statutes
21 in this state or another state within the last ten (10) years is not
22 eligible for the program. An offender who has previously completed
23 or has been discharged from a Veterans' Treatment Program within the
24 last three (3) years is not eligible for the program. Eligibility

1 and entry by an offender into the Veterans' Treatment Program is
2 dependent upon approval of the district attorney. Traditional
3 prosecution shall be required where an offender is determined not
4 appropriate for the Veterans' Treatment Program. Nothing in this
5 section affects the district attorney's existing authority to amend
6 any charge.

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

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

24

1 H. The disposition of the case shall be as specified in the
2 written plea agreement which sets forth the penalty to be imposed
3 for the offense in the event of termination or voluntary withdrawal
4 from the program, and the penalty to be imposed, if any, in the
5 event of a successful completion of the program.

6 1. When an offender successfully completes the Veterans'
7 Treatment Program, the criminal case against the offender shall be:

8 a. dismissed if the offense was a first felony offense;

9 or,

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

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

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

1 J. Nothing in this act shall prohibit any county or municipal
2 court from establishing a Veterans' Treatment Program for
3 misdemeanor offenses.

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

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

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

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

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

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

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

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

21 P. Notwithstanding any other provision of law, if the driving
22 privileges of the offender have been suspended, revoked, cancelled
23 or denied by the Department of Public Safety and if the Veterans'
24 Treatment Program court determines that no other means of

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

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

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

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