

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2802

By: Matthews

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5
6 AS INTRODUCED

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

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

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

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

3 B. Any district court of this state may establish a veterans'
4 treatment program pursuant to the provisions of this section.

5 C. For purposes of this section:

6 1. "Oklahoma veterans' treatment program" means a judicial
7 process that utilizes specially trained court personnel to expedite
8 the case and explore alternatives to incarceration for veterans or
9 service members charged with criminal offenses who are in need of
10 treatment for posttraumatic stress disorder (PTSD), traumatic brain
11 injury (TBI), mental health issues or substance abuse treatment;

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

15 3. "Service member" means any current or reserve member of the
16 United States Armed Forces, including a member of the reserves or
17 National Guard.

18 D. The court may request assistance from the Department of
19 Mental Health and Substance Abuse Services, the United States
20 Department of Veterans Affairs, or other community-based programs
21 and agencies to assist in developing and implementing a veterans'
22 treatment program and to obtain the necessary treatment services
23 which will assure maximum opportunity for successful treatment,
24 education and rehabilitation for offenders admitted to the program.

1 Funding for veterans' treatment programs may come from contracts
2 with the Department of Mental Health and Substance Abuse Services,
3 as funds are available, through funds budgeted for alternative
4 courts, substance abuse treatment or mental health treatment, the
5 Oklahoma Department of Veterans Affairs, grants or any other private
6 or public monies.

7 E. Any offender currently charged with or convicted of any
8 offense listed in Section 13.1 of Title 21 or Section 571 of Title
9 57 of the Oklahoma Statutes in this state or a comparable offense in
10 another state shall not be eligible for the program. An offender
11 who has previously completed or has been discharged from a veterans'
12 treatment program within the last three (3) years is not eligible
13 for the program. Eligibility and entry by an offender into the
14 veterans' treatment program is dependent upon approval of the
15 district attorney. Traditional prosecution shall be required if an
16 offender is determined not appropriate for the veterans' treatment
17 program. Nothing in this section affects the district attorney's
18 existing authority to amend any charge.

19 F. The district attorney shall assign each applicant to the
20 veterans' treatment program team or coordinator prior to determining
21 eligibility and entry. The program team or coordinator shall
22 provide the district attorney with all assessments and clinical
23 evaluations completed and inform the district attorney as to the
24 defendant's military service and mental health or substance abuse

1 issues, including any evidence of posttraumatic stress disorder or a
2 traumatic brain injury. The team or coordinator shall make a
3 recommendation to the district attorney as to whether the applicant
4 is appropriate for the veterans' treatment program. The district
5 attorney shall make the final determination as to eligibility and
6 entry and shall consider the recommendation of the team or
7 coordinator along with the district attorney's assessment as to
8 whether the safety of the victim and the community can be reasonably
9 assured.

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

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

19 1. When an offender successfully completes the veterans'
20 treatment program, the criminal case against the offender may be:

21 a. dismissed if the offense was a first felony offense,
22 or

23 b. if the offender had a prior felony conviction, the
24 disposition shall be as specified in the written plea

1 agreement. The district attorney may dismiss the case
2 or offer a disposition including reduction to a
3 misdemeanor, a deferred sentence or a suspended
4 sentence. Any statutory preclusion or prohibition on
5 offering such dispositions on a plea agreement shall
6 be waived for those who successfully complete the
7 veterans' treatment program.

8 2. The court shall not amend the written plea agreement after
9 an offender has been admitted to the veterans' treatment program.

10 I. Nothing in the Oklahoma Veterans' Treatment Act shall
11 preclude the establishment of a veterans' treatment program from
12 utilizing a deferred prosecution program as authorized by Sections
13 305.1 through 305.6 of Title 22 of the Oklahoma Statutes.

14 J. Nothing in Oklahoma Veterans' Treatment Act shall prohibit
15 any district court from establishing a veterans' treatment program
16 for misdemeanor offenses.

17 K. Nothing in the Oklahoma Veterans' Treatment Act shall
18 prohibit the transfer of the case or supervision of a veteran or
19 service member from a county without a veterans' treatment program
20 to one with such a program. The transfer of the case shall be made
21 pursuant to an order of the district court in the jurisdiction where
22 the case was originally filed.

23 L. The defendant shall execute a written agreement to
24 participate in the program and shall agree to all the terms and

1 conditions of the program, including, but not limited to, the
2 possibility of sanctions or incarceration for failing to comply with
3 the terms of the program.

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

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

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

5 N. The period of time which an offender may participate in the
6 active treatment portion of the veterans' treatment program shall
7 not exceed twelve (12) months.

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

12 P. If the driving privileges of the offender have been
13 suspended, revoked, cancelled or denied by the Department of Public
14 Safety and if the veterans' treatment program court determines that
15 no other means of transportation for the offender is available, the
16 court may enter a written order requiring the Department of Public
17 Safety to stay any and all such actions against the Class D driving
18 privileges of the offender; provided, the stay shall not be
19 construed to grant driving privileges to an offender who has not
20 been issued a driver license by the Department or whose Oklahoma
21 driver license has expired, in which case the offender shall be
22 required to apply for and be found eligible for a driver license,
23 pass all examinations, if applicable, and pay all statutory driver
24 license issuance or renewal fees. The offender shall provide proof

1 of insurance to the court prior to the court ordering a stay of any
2 driver license suspension, revocation, cancellation or denial. When
3 a court of a veterans' treatment program enters a stay against an
4 order by the Department of Public Safety suspending or revoking the
5 driving privileges of an offender, the time period set in the order
6 by the Department for the suspension or revocation shall continue to
7 run during the stay.

8 SECTION 2. This act shall become effective November 1, 2014.

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