

Bureau of Justice Assistance Drug Court Technical Assistance Project

Veterans Treatment Courts: Compilation of Preliminary Information from Survey Responses

Topic Two: STATE STATUTES RELEVANT TO VETERANS TREATMENT COURTS: PRELIMINARY LIST

As part of the Veteran Treatment Court survey conducted by American University survey respondents were asked to indicate any statutes relating to veterans treatment courts that had been enacted in their respective jurisdictions. The following is a preliminary list of statutes relating to veteran treatment courts that were compiled.

Respondents in 13 states plus Guam provided citations to relevant statutes enacted in their respective jurisdictions.¹ To supplement this information, American University staff conducted a preliminary review of the statutes in the remaining 37 states and identified 5 additional states with statutes relevant to veterans treatment courts (AL, CO, MS, NV, SC). In all, 29 statutes enacted relevant to veterans treatment courts were identified in 18 states plus Guam, as listed below, with a brief summary of the provisions of each statute and the relevant citation(s). Those marked with asterisks were statutes identified by respondents to the Veteran Treatment Court survey.

We welcome additional information or updates which should be sent to: justice@american.edu.

Alabama:

Code of Ala. § 15-27-2. Petition for expungement of record of a felony offense: Allows for expungement of records after a defendant has completed a veterans court program.

Arizona:

***A.R.S. § 22-601. Homeless, veterans and mental health courts; establishment; eligibility for referral:** Allows the presiding judge of the superior court to establish a veterans court and establish eligibility criteria. The justice of peace or municipal court judge can refer a case that meets eligibility criteria to the veterans court. The originating court shall notify the prosecutor of any criminal case referred to veterans court.

California:

***PC 1170.9. Convicted felon with problems resulting from service in United States military; Commitment to treatment program:** If defendant alleges that they committed their crime due to conditions stemming from service in the military, the court shall make a determination whether the defendant was or is currently in the military, and whether the conditions resulted from their service. If so and they are eligible for probation, the court can send them to an alternative treatment program.

¹ Respondents from two states (North Carolina and West Virginia) listed statutes relevant to veterans treatment courts but, upon review, these appeared to relate to general specialty or “therapeutic” courts and not specifically to veterans treatment courts so they are therefore not included in this list.

Colorado:

C.R.S. 13-5-144; Chief Judge - veterans treatment court authority. Authorizes the chief judge of a judicial district to establish “an appropriate program for the treatment of veterans and members of the military.”

Florida:

***Fla. Stat. § 394.7891. Military veterans and servicemembers court programs:** Authorizes the chief judge of each judicial circuit to establish a VTC which serves veterans and servicemembers who are convicted of criminal offenses and suffer from “military related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem” can be sentenced in a manner that appropriately addresses the severity of the issue through services tailored to the needs of the individual. Entry must be based on “assessment of the defendant’s criminal history, military service, substance abuse treatment needs, mental health treatment needs, amenability to the services of the program, the recommendation of the state attorney and the victim, if any, and the defendant’s agreement to enter the program.”

***Fla. Stat. § 948.08. Pretrial intervention program:** Veterans and servicemembers are eligible for pretrial intervention programs provided they had not previously turned down an offer to be in a program or they had previously entered into a program.

***Fla. Stat. § 948.16. Misdemeanor pretrial substance abuse education and treatment intervention program; misdemeanor pretrial veterans' treatment intervention program:** Similar to 948.08, mainly dealing with misdemeanor programs.

Georgia:

***O.C.G.A. § 15-1-17. Veterans Court divisions:** Authorizes any court with jurisdiction over criminal cases to establish a veterans court division “to provide an alternative to the traditional judicial system for disposition of cases in which the defendant is a veteran.”² Defendant can be referred, if meeting eligibility requirements, “prior to the entry of the sentence if prosecuting attorney consents”, “as part of the sentence”, “or upon consideration of the petition to revoke probation.”³ Each veterans court division has to establish a work plan that is written by a group that includes the judges, prosecuting attorneys, sheriffs or their designees, public defenders, probation officer, and persons having expertise in services available to veterans. The plan shall include policies and procedures related to implementing practices and standards. It also will include eligibility criteria for entry. The Judicial Circuit of Georgia will adopt standards and practices for veterans court divisions. Lays out personnel decisions for staffing the court. Provides how the court may be paid for. Every veterans court division is responsible to create written criteria for completing the program, and if a participant successfully completes the program, their sentence may be reduced or modified. Any statements made during the program cannot be used against the participant in any proceedings, however if the participant is removed from the program the reasons for the violation/termination can be used in sentencing, sanctioning, or otherwise disposing of the participant’s case.

O.C.G.A. § 40-5-76. Restoration or suspension of defendant's driver's license or issuance of limited driving permit: Authorizes the judge presiding over a veterans court to order the defendant’s driver’s license to be restored.

² O.C.G.A. § 15-1-17 (b)(2)

³ O.C.G.A. § 15-1-17 (b)(2)(A-C)

Guam:

***7 GCA § 2101. Courts of Justice in General: Authorizes** the Judicial Council of the Judiciary of Guam to establish a veterans treatment court program as either an independent court or a program of a specialized treatment court; also authorizes the Judicial Council to also establish a fee schedule to supplement the cost of the court.

Illinois:

330 ILCS 135; Purposes: Establishes a Military and Veterans Courts Task Force “to investigate and develop a statutory basis for a specialized military and veterans court system with the necessary flexibility to meet unique service-related problems in the State of Illinois.”⁴

***730 ILCS 167.; Veterans and Servicemembers Court Treatment Act:**

Section 5. Creates specialized veteran and servicemember courts or programs.

Section 10. Definitions, including veterans and servicemembers.

Section 15. Authorizes the Chief Judge of each judicial circuit to establish a court. It can either be a separate court or a track of a different problem-solving court, and can also be operated on a circuit basis, allowing all those in the encompassed counties to participate.

Section 20. Defendants are eligible if the prosecutor and defendant agree, along with approval of the court. The defendant is not eligible if: “the crime is a crime of violence”; “the defendant does not demonstrate a willingness to enter the program”; “the defendant has been convicted of a crime of violence in the last 10 years, excluding incarceration time”; “the crime for which the defendant has been convicted is non-probationale”; or “the sentence imposed on the defendant, either by plea or finding of guilt, renders them ineligible for probation.”⁵

Section 25. The court can order the defendant to have screening and assessments done on their veteran status and mental health/substance abuse status. The court also has to inform the defendant of the consequences of not completing the program, and requires the defendant to enter into a written agreement with the court over the program’s terms and conditions.

Section 30. The court may maintain a network of substance abuse treatment programs commensurate with the needs of the defendants. Any program must conform to Illinois law. The court may also employ additional services or interventions as it deems necessary on a case-by-case basis. As above, the court may maintain or collaborate with a network of mental health treatment programs.

Indiana:

***Burns Ind. Code Ann. § 33-23-16-10. "Veterans' court" defined:** Defines veterans courts, noting that they address the needs of veterans by bringing together various professionals and linking eligible veterans to tailored services or programs.

Louisiana:

***La. R.S. § 13:5362-7.**

(5362; Purpose) Legislature seeks to create specialized veterans courts.

(5363; Goals) Goals are “to reduce drug abuse and alcoholism and dependency among offenders”; “to reduce the alcohol and drug related workload of the courts”; “to reduce criminal recidivism”; “to diagnose undiagnosed mental health problems and provide assistance”; “to increase the personal, familial, and societal accountability of offenders”; “to reduce prison

⁴ 330 ILCS 135 sec. 5.

⁵ 730 ILCS 167/20 (b)(1-6)

overcrowding”; “to provide employment and job training for veterans”; “to provide housing assistance for veterans; to provide benefits counseling.”⁶

(5364; Definitions) Defines the key characteristics of a VTC including monitoring, testing, non-adversarial approaches, etc.

(5365; Eligibility, process) Proof of defendant’s military service must be submitted to the court in any form the court deems appropriate. The court must make a determination on record of whether the defendant is eligible for the veterans court.

(5366; The Veterans Court program) Authorizes each district court to “designate as a Veterans Court program one or more divisions of the district court to which veterans are assigned and may establish a probation program to be administered by the presiding judge or judges thereof or by an employee designated by the court.”⁷ The section lists out requirements for probation, what the court should inform the participant of, regulations regarding notification of participation. It also includes a requirement for the program to develop a system of evaluation.

(5367; Additional veteran indicator documents) Provides additional documents that can be used to verify defendants veteran status.

Maine:

***4 M.R.S. § 433. Veterans treatment courts:** Defines a veterans court as “a specialized sentencing docket in select criminal cases” in which the defendant is a veteran or servicemember. The chief justice may establish a VTC. Groups can seek funding for VTCs when available from state, federal, etc. sources.

Massachusetts:

Session Laws 2014. C. 62 section 33: Provides for a 2-year veteran court program and study in order to develop a model that can be implemented across the commonwealth.

***General Laws Part IV, Title II, Chapter 276A.**

Section 10: A probation officer shall inquire whether a defendant is a veteran prior to arraignment. If there are determined to be a veteran, the court has jurisdiction to divert the veteran to a program as long as they have not previously been convicted of an offense that punishment was potentially imprisonment, and has no outstanding warrants.

Section 11: If a defendant is found to be eligible, then the court can issue a 14-day continuance to seek an assessment from the VA or other agency on the treatment options available to the defendant.

Michigan:

MCLS § 600.1082; Drug treatment court advisory committee: Establishes a drug treatment court advisory committee that has a member from an existing veterans court and monitors the effectiveness of veterans courts.

***MCLS § 600.1201-12.**

(1201; Veterans treatment court; compliance; characteristics; memorandum of understanding; training; participants from other jurisdiction; validity of transfer) “A veterans court shall comply with the modified 10 key components as promulgated by the Buffalo veterans treatment court.”⁸

(1202; Hiring or contracting with treatment providers)

⁶ La. R.S. § 13:5363 (1-9)

⁷ La. R.S. § 13:5366 (A)

⁸ MCLS § 600.1201 (1)

(1203; Admission to veterans treatment court) “A veterans treatment court shall determine whether an individual may be admitted to the veterans treatment court. No individual has a right to be admitted into a veterans treatment court. However, an individual is not eligible for admission into a veterans treatment court if he or she is a violent offender.”⁹ “To be eligible for admission to a veterans treatment court, an individual shall cooperate with and complete a preadmissions screening and evaluation assessment and shall agree to cooperate with any future evaluation assessment as directed by the veterans treatment court.”¹⁰ This information is confidential and cannot be used in a criminal prosecution except for a statement or information that reveals criminal acts other than drug use.

(1204; Findings or statement) Before an individual is admitted into a veterans treatment court, the court shall establish the following: “That the individual is a veteran”; “That the individual is dependent upon or abusing drugs or alcohol, or suffers from a mental illness, and is an appropriate candidate for participation in the veterans treatment court”; “That the individual understands the consequences of entering the veterans treatment court and agrees to comply with all court orders and requirements of the court's program and treatment providers”; “That the individual is not an unwarranted or substantial risk to the safety of the public or any individual, based upon the screening and assessment or other information presented to the court”; “That the individual is not a violent offender”; “That the individual has completed a preadmission screening and evaluation assessment under section 1203(3) and has agreed to cooperate with any future evaluation assessment as directed by the veterans treatment court”; “That the individual meets the requirements, if applicable, of a statute listed under section 1203(2)”; “The terms, conditions, and duration of the agreement between the parties, and the outcome for the participant of the veterans treatment court upon successful completion by the participant or termination of participation.”¹¹

(1205; Admission of individual charged in criminal case; conditions) Admission into the VTC is subject to the following conditions: “The offense or offenses allegedly committed by the individual are generally related to the military service of the individual, including the abuse, illegal use, or possession of a controlled substance or alcohol, or mental illness that arises as a result of service”; “The individual pleads guilty to the charge or charges on the record”; “The individual waives in writing the right to a speedy trial, the right to representation by an attorney at veterans treatment court review hearings, and, with the agreement of the prosecutor, the right to a preliminary examination”; “The individual signs a written agreement to participate in the veterans treatment court.” An individual who may be eligible for discharge and dismissal of an offense, delayed sentence, deferred entry of judgment, or deviation from the sentencing guidelines shall not be admitted to a veterans treatment court unless the prosecutor first approves the admission of the individual into the veterans treatment court in conformity with the memorandum of understanding under section 1201(2). A veteran who pleads guilty as part of their application to the VTC and then is not admitted into the program shall be permitted to withdraw their plea and is entitled to a preliminary examination.

(1206; Admission to veterans treatment court; conditions; length of jurisdiction; collaboration; fee; information contained in L.E.I.N. pertaining to criminal history)

(1207; Veterans treatment court; responsibilities to individual)

(1208; Duties of individual; notification of new crime; payment of fines, fees, and costs)

(1209; Veterans treatment court program; finding or statement upon completion or termination of program; discharge or dismissal of proceedings; duties of court upon

⁹ MCLS § 600.1203 (1)

¹⁰ MCLS § 600.1203 (3)

¹¹ MCLS § 600.1204 (a-h)

successful completion of probation or court supervision; termination or failure to successfully complete program; duties of court)
(1210; Collection of data)
(1211; Funds; report)
(1212; State drug treatment court advisory committee; monitoring; recommendations)

Minnesota:

***Minn. Stat. § 609.115 subd. 10. Military Veterans:** When a defendant appears in court, it shall be inquired whether they are a veteran or currently serving in the military. If they are, and suffering from a diagnosed mental illness, the court may explore treatment options available to the defendant.

Missouri:

***§ 478.008 R.S.Mo. Veterans treatment courts authorized, requirements:** Veterans Treatment Courts may be established by any circuit court, or combination of circuit courts, upon agreement from the presiding judges. “A veterans treatment court shall combine judicial supervision, drug testing, and substance abuse and mental health treatment to participants who have served or are currently serving the United States Armed Forces, including members of the Reserves, National Guard, or state guard.”¹² Each court will develop conditions for referral of proceedings and enter into a MOU with each participating prosecuting attorney in the circuit court. This will specify a list of felony offenses ineligible for referral. Any statements made during the program cannot be used in any proceedings against the participant.

Mississippi:

Miss. Code Ann. § 9-23-11; Uniform certification process for drug and certain other courts; minimum standards for drug court operation; collection and reporting of certain data: “The Administrative Office of Courts shall establish, implement and operate a uniform certification process for all drug courts and other problem-solving courts including juvenile courts, veterans courts or any other court designed to adjudicate criminal actions involving an identified classification of criminal defendant to ensure funding for drug courts supports effective and proven practices that reduce recidivism and substance dependency among their participants.”¹³

Miss. Code Ann. § 9-25-1; Veterans Treatment Courts; legislative intent; authorization; eligibility for participation; Administrative Office of Courts to oversee; development of statewide rules and policies by State Drug Court Advisory Committee; funding; immunity: A circuit court judge can establish a VTC, and it can be either a track or a separate program. It can be operated in one county in the circuit and allow participants from all counties within the circuit. In order to be eligible the attorney representing the state must give approval for the defendant’s admission into the program. Further, defendant must be proven a veteran as set out in USCS Title 38. “A defendant shall be excluded from participating in a Veterans Treatment Court program if any one (1) of the following applies:

- (i) The crime before the court is a crime of violence
- (ii) The defendant does not demonstrate a willingness to participate in a treatment program.
- (iii) The defendant has been previously convicted of a felony crime of violence including, but not limited to: murder, rape, sexual battery, statutory rape of a child under the age of sixteen (16), armed robbery, arson, aggravated kidnapping, aggravated assault, stalking, or any offense

¹² § 478.008 R.S. Mo. (2)

¹³ Miss. Code Ann. § 9-23-11 (1)

involving the discharge of a firearm or where serious bodily injury or death resulted to any person”¹⁴

Nevada:

Nev. Rev. Stat. Ann. § 176.015; Prompt hearing; court may commit defendant or continue or alter bail before hearing; statement by defendant; presentation of mitigating evidence; rights of victim; notice of hearing: Before imposing sentence, the court must inquire to see whether the defendant is a veteran, and meets the qualifications listed in “paragraphs (b) and (c) of subsection 2 of NRS 176A.285 may assign the defendant to an alternative program.”¹⁵

Nev. Rev. Stat. Ann. § 176A.280; Establishment of program for treatment of veterans and members of military; assignment of defendant to program; progress reports: “A court may establish an appropriate program for the treatment of veterans and members of the military to which it may assign a defendant pursuant to NRS 176A.290. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.”

Nev. Rev. Stat. Ann. § 176A.285; Transfer of jurisdiction from justice court or municipal court to district court for assignment of defendant to program: Eligibility requirements for a veteran include:
“(a) Has not tendered a plea of guilty, guilty but mentally ill or nolo contendere to, or been found guilty or guilty but mentally ill of, an offense that is a misdemeanor;
(b) Appears to suffer from mental illness, alcohol or drug abuse or posttraumatic stress disorder, any of which appear to be related to military service, including, without limitation, any readjustment to civilian life which is necessary after combat service; and
(c) Would benefit from assignment to a program established pursuant to NRS 176A.280.”¹⁶

Nev. Rev. Stat. Ann. § 176A.290; Conditions and limitations on assignment of defendant to program; effect of violation of terms and conditions; discharge of defendant upon fulfillment of terms and conditions; effect of discharge: “If a defendant who is a veteran or a member of the military and who suffers from mental illness, alcohol or drug abuse or posttraumatic stress disorder as described in NRS 176A.285 tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.280.”¹⁷ If the offense involved violence, program entry only allowed with prosecutor’s approval. If the terms or conditions are violated the court can proceed with the conviction which the defendant was charged. Upon completion of the program, the court will discharge the defendant and dismiss the proceedings.

Nev. Rev. Stat. Ann. § 176A.295; Sealing of records after discharge: After completing the program, all records relating to the case are to be sealed.

¹⁴ Miss. Code Ann. § 9-25-1 (e)(i-iii)

¹⁵ Nev. Rev. Stat. Ann. § 176.015 sec. 2(b)(2)

¹⁶ Nev. Rev. Stat. Ann. § 176A.285 sec. 2(a-c)

¹⁷ Nev. Rev. Stat. Ann. § 176A.290 sec. 1

South Carolina:

S.C. Code Ann. § 14-29-30. Veterans treatment court programs may be established: “Each circuit solicitor may establish a veterans treatment court program. Each circuit solicitor that accepts state funding for the implementation of a veterans treatment court program must establish and administer at least one veterans treatment court program for the circuit within one hundred eighty days of receipt of funding. The circuit solicitor must administer the program and ensure that all eligible persons are permitted to apply for admission to the program.”

Texas:

Tex. Gov’t Code § 103.0271. Additional Miscellaneous Fees and Costs: Government Code: Sets up a fee for the VTC program, not to be more than \$1,000. Also sets up fees for drug testing, etc., conducted by the VTC program.

***Tex. Gov’t Code § 124.001-005. Veterans Court Program:**

(001; Veterans Court Program Defined; Procedures for Certain Defendants) Veterans courts have the following characteristics:

- “(1) the integration of services in the processing of cases in the judicial system;
- (2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;
- (3) early identification and prompt placement of eligible participants in the program;
- (4) access to a continuum of alcohol, controlled substance, mental health, and other related treatment and rehabilitative services;
- (5) careful monitoring of treatment and services provided to program participants;
- (6) a coordinated strategy to govern program responses to participants' compliance;
- (7) ongoing judicial interaction with program participants;
- (8) monitoring and evaluation of program goals and effectiveness;
- (9) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and
- (10) development of partnerships with public agencies and community organizations, including the United States Department of Veterans Affairs.”¹⁸

If a defendant successfully completes the program the court shall dismiss the case.

(002; Authority to Establish Program; Eligibility) Authorizes the commissioners court of the county to establish a VTC for those charged with a felony or misdemeanor. A defendant is eligible to participate if the attorney representing the state agrees and the court housing the program finds that the defendant is a veteran, has an issue relating to their military service, and that issue played a role in the offense committed. The court will give a choice to the defendant about entering the program or proceeding normally in the criminal justice system.

(003; Duties of Veterans Court) “A veterans court program established under this chapter must:

- (1) ensure a person eligible for the program is provided legal counsel before volunteering to proceed through the program and while participating in the program;
- (2) allow a participant to withdraw from the program at any time before a trial on the merits has been initiated;
- (3) provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant; and

¹⁸ Tex. Gov’t Code § 124.001 (a)(1-10)

(4) ensure that the jurisdiction of the veterans court continues for a period of not less than six months but does not continue beyond the period of community supervision for the offense charged.”¹⁹

(004; Establishment of Regional Program) The commissioners courts of two or more counties may elect to establish a regional veterans court program under this chapter for the participating counties.

(005; Fees) Fees may be collected from participants not to exceed \$1,000. Costs can also be collected for treatment, testing, etc. The fees must be based on the participant’s ability to pay and used only for specific purposes to the program.

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¹⁹ Tex. Gov’t Code § 124.003 a(1-4)