



Veterans Treatment Courts in Michigan: A Manual For Judges



WESTERN MICHIGAN UNIVERSITY
Cooley Law School™



Western Michigan University-Cooley Law School

Michigan Veterans Affairs Agency

State Court Administrative Office

Professor Michael C.H. McDaniel

.....

*Special thanks to the WMU Cooley law students who
worked passionately and tirelessly on this Veterans
Treatment Court manual: Vincent Anyaso,
Jacqueline Cardella, Aaron Cook, Brenda Polk,
and James Springer and especially Heather Spielmaker,
Director of the WMU Cooley Center for Ethics,
Service and Professionalism.*



Michael C.H. McDaniel is the author and Professor and Director of the Homeland and National Security Law LLM Program at WMU Cooley Law School. He is a retired Brigadier General with the Michigan National Guard and a member of the Council of the Military and Veterans Section of the State Bar.

Special thanks to the State Court Administrative Office and the Michigan Veterans Affairs Agency for their support of this project.

There are currently 22 Veterans Treatment Courts in Michigan. The list can be found on the State Court Administrative Office website at Courts.mi.gov/Administration/admin/op/problem-solving-courts/Documents/VTCS.pdf . On behalf of the WMU Cooley students, we extend our thanks to all of the judges for giving so graciously of their time and knowledge.

TABLE OF CONTENTS



Veterans Treatment
Courts in Michigan:

A Manual For Judges

5	INTRODUCTION
6	PART I: ESTABLISHMENT OF THE COURT
6	The Community Need
6	Funding
7	Selecting a Model for the Court
9	Qualified Veteran-Participants
11	PART II: A TEAM BASED CONCEPT
11	Assembling the VTC Team
12	The Judge
13	The Mentor Team
16	Defense Attorney
16	Prosecuting Attorney
16	Probation Officer
16	VA Treatment Professionals
17	Non-VA Treatment Professionals
17	Veteran Service Organizations
17	Coordinating with Outside Resources
18	Team Meetings
18	Veteran-Participant Access to the Court
19	PART III: ADMINISTRATION
19	Prepare to Launch
20	The Nonadversarial Approach
21	Advancement Through the Program
21	Graduation
22	Tracking Success
22	Conclusion
23	RESOURCES AVAILABLE FOR VETERAN TREATMENT COURT MEMBERS
25	REVISED PA 335



STATE OF MICHIGAN
EXECUTIVE OFFICE
LANSING

RICK SNYDER
GOVERNOR

BRIAN CALLEY
LT. GOVERNOR

May 1, 2015

To Members of the Michigan Judiciary,

Generations of men and women in our U.S. Armed Forces have put themselves in harm's way to protect our residents and preserve our freedoms. At times, the injuries they sustain while in service to our country are unseen, causing uncharacteristically negative behaviors and affecting a veteran's actions back home. Since 2012, Michigan has been a national model for helping these veterans address the unique legal struggles that can result from these injuries, thanks to the establishment of the state's veteran treatment courts and their impact on the state's judicial system.

Our state leads the nation in the number of veteran treatment courts and continues to grow and expand its capabilities. This manual, created by Western Michigan University - Cooley Law School in partnership with the Michigan Veterans Affairs Agency and the State Court Administrative Office, describes the characteristics and key elements of Michigan's veteran treatment courts and provides a valuable tool for judges, court administrators, prosecutors and other members of the court interested in serving their veteran community.

Thank you to all the courts and judges who graciously gave their time and input to the Cooley students who traveled around the state conducting interviews and collecting information for this manual. With your help, we have created a resource that will encourage further learning and help share why Michigan is so successful at developing and expanding this court model.

Sincerely,

Rick Snyder
Governor



Michigan Supreme Court
Lansing, Michigan 48909

April 27, 2015

To Michigan Judges,

Our Court is committed to measuring trial court performance and improving outcomes. That is why we strongly support the life-saving work of Michigan's veterans treatment courts. Thanks to the dedicated efforts of these problem-solving courts and the judges who lead them, veterans are benefitting from an improved quality of life and communities are being strengthened. At the same time, avoiding incarceration saves taxpayers substantial resources.

These courts recognize that service and sacrifice do not stop when a veteran concludes service in uniform. With the help of volunteer mentors, brave men and women are afforded the support needed to overcome challenges that can be exceedingly difficult if faced alone. Veterans have served us, and now, our duty is to serve them, so I urge you to give serious consideration to starting a veterans treatment court in your community or making one accessible to local veterans through a regional partnership.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert P. Young, Jr.", written over a horizontal line.

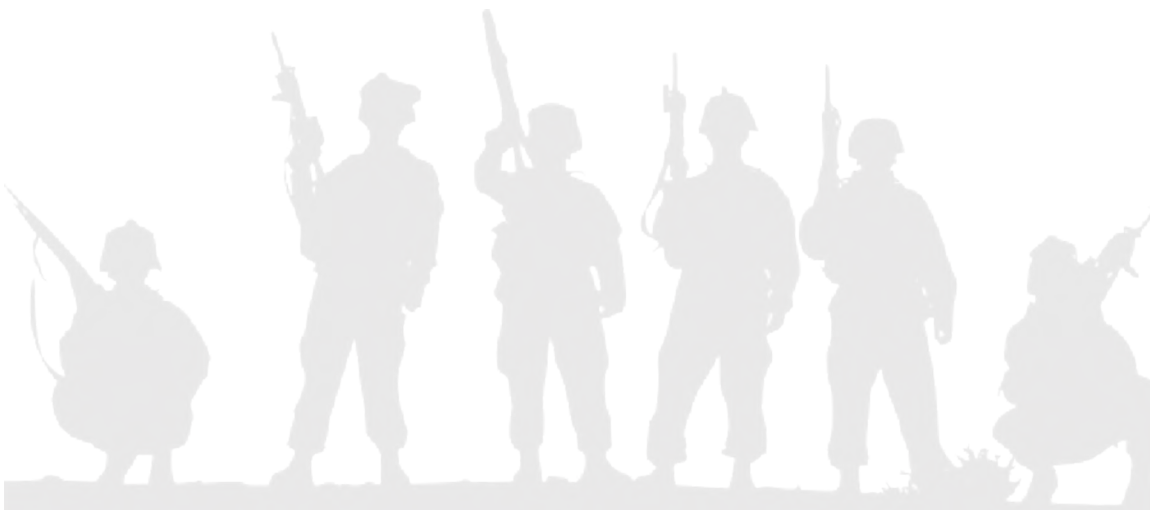
Robert P. Young, Jr.

INTRODUCTION

In 2013 the Michigan Legislature codified the practice of many Michigan courts by creating a specialized juridical process to recognize the unique circumstances of Michigan veterans. The establishment of Veterans Treatment Courts (VTC) in Michigan, first by local administrative rule and now by statute, is in recognition of the impact that the increasing numbers of returning veterans with serious mental health or substance abuse issues has had on the criminal justice system.

Almost simultaneously, the Michigan Legislature and State Court Administrative Office (SCAO) made funds available for the support of VTCs at the circuit and district court levels. The SCAO and the Michigan Veterans Affairs Agency asked the Western Michigan University (WMU) Cooley Law

School to develop a manual for judges who wished to develop a VTC in their jurisdiction. “Manual” may be a misleading term, as this publication is not a “how to” procedural nor an explication of all the statutory requirements, but a compilation of suggested practices and advice by those Michigan judges who have recognized the need for a VTC, acknowledged the solution, and adapted it for their local court system. WMU Cooley law students interviewed every judge in Michigan that had created a VTC and compiled their findings, instructions and anecdotes into a single volume. The directions and suggestions contained herein, then, are a compilation of the best practices of existing VTC judges, which we were honored to compile and edit into this manual.



PART I: ESTABLISHMENT OF THE COURT

The Community Need

The creation and success of any new program, such as a VTC, is based upon whether it fills a need of the community, and a judge is in a great position to champion new programs and initiatives. While the initial urge to set up a VTC may be well intentioned, its success will likely depend on the community's perception of the need and desire to assist veterans. Without the public's support, veterans may not be embraced as a unique subset of the population worthy of the benefits of a treatment court, and the community may ultimately not be willing to take ownership of the VTC. If the community perceives the VTC as giving veterans an easy way out, its chances at success will be limited. Thus, a judge should determine whether veterans within the community are caught in a cycle of trouble and increasingly having a negative impact on the community as a whole.

It is important to distinguish a VTC from other types of recovery courts. A VTC will have elements recognizable from the drug court model, but it is meant to include more. The VTC essentially assumes the daunting task of not only interrupting the destructive cycle in a veteran's life, but disrupting that cycle for the veterans in a community and building a new cycle so that the veterans and community all benefit. The VTC should be understood to be a gift to the community.

One critical question that must be asked is, "How many of our veterans find themselves in the criminal system because they have not received proper services and care?" These are services and care veterans have earned, but because they have not taken advantage of these resources, they find it more difficult to reintegrate into civilian life. While it is easy to identify a veteran with an amputation or visible scar, there are many more veterans who have returned from service who now suffer from changed behavior patterns and even post-traumatic stress injury. So, while it is important to look at statistics, it is perhaps more important to look beyond the numbers when assessing the needs of the community.

Statistics can come from local law enforcement; the county veteran's administration and veteran service coordinator; veterans service organizations (VSO), such as Veterans of Foreign Wars; community prisons or jails; homeless services; and social services. Relevant statistics can include patterns of domestic violence, road rage, alcohol and drug

abuse, and suicide reports. In establishing a VTC, it is important to consider any and all local resources that may be useful as well as to evaluate the current population of veterans in your community.

Another important consideration is whether the community is already absorbing the cost of trying to help veterans. Is there enough momentum to support a holistic program? The focus must be on the quality of the program outcomes - the benefits to the veterans - not on the number of veteran-participants in each court. Since the community may already be allocating resources to assist veterans, is there also a desire to rehabilitate veterans into productive citizens? A VTC is meant to streamline resources for a veteran-participant to receive the services, care, accountability, training, and the mentorship that they need.

Funding

In order to facilitate the receipt of public and private grants, a VTC may find it beneficial to create a 501(c)(3) non-profit organization. Applications for 501(c)(3) status must be submitted through the Internal Revenue Service. For more information, see Publication 4220: Applying for 501(c)(3) Tax-Exempt Status, which is designed to help prospective charities apply for tax exemption. It is available at [Irs.gov/pub/irs-pdf/p4220.pdf](https://www.irs.gov/pub/irs-pdf/p4220.pdf). It is important to keep in mind that judges and court staff must adhere to ethical canons regarding fundraising. To be safe, keep any nonprofit organization completely separate from court operations and personnel.

Although much of the work of a VTC is by volunteers, it is useful to have at least one paid position, even if part-time. In various courts, this paid position has been the mentor-coordinator or the program director. A mentor-coordinator screens, trains, and pairs mentors with veterans, and is in regular contact with the mentors, especially on hearing days. The program director administers the docket and coordinates information among the team members, including the judge and the veteran-participants.

State Funding and Other Requirements

The State of Michigan, through the State Court Administrative Office (SCAO), offers a state grant specifically for VTCs: the Michigan Veterans Treatment Court Grant Program. This is an annually approved grant and is currently the only state-funded grant for which VTCs qualify. VTCs are currently ineligible for grants designated specifically for drug courts, sobriety courts, or mental health courts. Interested VTCs should contact the SCAO. Contact information and grant details are currently available on the Michigan Courts' One Court of Justice website at Courts.mi.gov/administration/admin/pages/grant-opportunities.aspx.

SCAO grant applications are submitted through the online program, WebGrants. The SCAO must be contacted to arrange permission to submit an application.

SCAO grants are reimbursement-based awards. The SCAO reimburses for allowed expenses on a quarterly basis. SCAO staff can assist a court that receives a grant award in establishing a budget.

VTCs agree to track certain metrics, (MCL 600.1210), including a variety of information about the screening process and case management. It may serve as a useful tool in considering various factors in creating a VTC. This information is available at Courts.mi.gov/Administration/admin/op/problem-solving-courts/Documents/MinimumStandardDataVeterans.pdf.

Federal Funding

The Bureau of Justice Assistance (BJA) proffers a variety of grant solicitations each year. Note that some are specific to VTCs while others are more generally offered to drug courts for which a VTC is considered to be eligible (e.g., BJA Adult Drug Court Discretionary Grant Program or the Joint Adult Drug Court Solicitation). More information is currently available at Bja.gov/Programs.aspx.

While the SCAO office does not administer the BJA grants, it can provide letters of support to Michigan courts that apply for them.

Private Grants

VTCs should consider grants that seek to prevent crime or to promote healthier communities. Also, veteran-specific grants are available for housing and education programs.

Selecting a Model for the Court

A VTC is established through a Local Administrative Order submitted by the court to the SCAO. Once a judge decides to establish a VTC, the statute gives courts the flexibility to decide how to form the court. The process for establishing a VTC is not set in stone and requires a case-by-case analysis of the particulars of a jurisdiction to determine the needs of the court. It can be helpful to look at functioning VTCs, evaluate similarities and differences, and determine what aspects of the other courts would work within a particular jurisdiction. The SCAO can provide a model Local Administrative Order to assist courts in establishing a VTC program.

Sufficient VTCs exist in Michigan now to provide inspiration and guidance on what type of court is needed within a particular jurisdiction. Every day, VTC teams learn more about implementing the most effective policies and procedures. Appreciating these experiences will serve you well when developing your own VTC.

Evaluating the similarities and differences of other VTCs should not be the sole function of you, the judge. There are numerous individuals and resources that will assist you. To begin, consider tasking your VTC team to investigate your jurisdiction to seek out available resources and treatment facilities. See *Coordinating With Outside Resources* on page 17 for more information.

As the judge and initiator of the court, the biggest factor in determining how to constitute your new VTC may be the type of court in which you currently sit. A VTC is not limited by geographic jurisdiction. Whether you preside over a district or circuit court, you can still establish your VTC's jurisdiction throughout the county through an agreement with other courts, solidified by the SCAO.

If the number of veterans within a jurisdiction is small, if a court is located in a highly rural area, or if a judge presides in a small community, courts may establish a regional model with collaboration from other counties. Additionally, expanding the reach of the VTC could insure adequate funding and resources.

Additional factors you should consider in determining the geographic scope of your VTC include:

1. Transportation issues
2. Treatment facility locations
3. Cooperation from other jurisdictions
4. Veterans population
5. VTC's proximity to the VA, local community resources
6. Availability of mentors

Whatever factors you consider, a regional court may be a good starting point when you are unsure of the need in the surrounding areas.

In the event you find that more veterans than expected qualify for the VTC or that some veterans are too far away from the VTC to maintain proper supervision, a VTC operating regionally can be scaled down as needed.

Should you not want to establish a fully regional program, keep in mind that your court can accept transfer cases from other jurisdictions (MCL 600.1201(4)). The statute allows for case transfers, but does not require a court to accept a transfer. If a case from another jurisdiction is an appropriate fit for your program and you are willing to accept the case, probation supervision is transferred to the VTC judge. The SCAO can provide more information on transferring a case, along with information located on their website at [Courts.mi.gov/Administration/admin/op/problem-solving-courts/Pages/default.aspx](https://www.scao.mi.gov/Administration/admin/op/problem-solving-courts/Pages/default.aspx).

Although a district court's jurisdiction may geographically span a small area, this model seems to provide the best proximity and control between the treatment team and the veteran-participant. Essentially, the veteran-participant remains a part of the same community as the VTC. Maintaining a smaller geographic scope provides

the benefits of minimizing transportation costs to and from court dates, treatment appointments, meetings with the probation officer, and required community service. Closer proximity also allows the mentor and probation officer to maintain better contact with the veteran in case of an emergency, and allows for more frequent face-to-face meetings with the veteran-participant. Again, the focus must always be on the quality of the program benefits for the veteran-participants. Despite the relatively limited jurisdiction of the district court, nearby districts which lack a VTC can always transfer a veteran to a neighboring district court. Judges are urged to be aware of the potential geographic issues that can occur when a veteran-participant is transferred.

Another consideration when deciding the model of a VTC is the proximity to the U.S. Department of Veterans Affairs (VA) or other treatment options. A district court with limited local resources and far away from a VA Medical Center may find it difficult to get the necessary treatment to the veteran-participants while also keeping them within the community¹.

Courts that do not have the population or resources to establish a standalone VTC can also consider developing a veterans track within an existing drug/DWI court or mental health court. These tracks operate within the framework of the drug/DWI or mental health court, but are specialized for veterans and include VA services and veteran mentors. Some courts find the track model to be worthwhile in that all cases have the same administration. Others find the track model to be a good fit as their jurisdiction has small numbers of veterans and the court cannot commit resources for a standalone program. Still, other courts started with a veterans track within a drug/DWI or mental health court and broke off into a standalone program once the program was more strongly established.

In short, there are a number of factors you need to consider when deciding how to set up a VTC. The VTC structure should remain flexible and allow for adjustment along the way, whether expanding or contracting.

¹There are ways to work through this: Muskegon, the new Upper Peninsula courts, Ionia, and Allegan are examples of courts which have successfully addressed the issue of the distance to VA resources.

Qualified Veteran-Participants

A well-situated VTC will plan clear boundaries for those it will try to reach. The VTC invites veterans to choose to be transformed from a typical “criminal defendant” into a “veteran-participant.” This transformation shifts the focus from the stigma of being a criminal to the honor of being a veteran, highlighting their individual worth and their collective value to society.

The Legislature likely intended an expansive consideration of a potentially-eligible “veteran” for participation in a veterans court, as the term “veteran” in the Michigan statute is broadly defined: either served on active duty for six months with any discharge other than dishonorable, or discharged due to service disability, or a reservist or National Guardsman ordered to active duty for any length of time during a time of war or campaign, without receiving a dishonorable discharge.

While the definition of veteran may be broad, the Court has complete discretion in establishing its target population and determining whether to accept a veteran into its VTC program. The statute defines “participant” as one “who is admitted” to a VTC, recognizing that the Court has discretion to evaluate veterans for admission. The statute goes on to expressly state that participation in the program is not a “right” of a veteran, but that the courts “shall determine” a veteran’s eligibility for participation in the program. The statute expressly prohibits violent offenders from admission. Further, the law requires the Court to order a “pre-admission screening and evaluation assessment” of the veteran.

The veteran assessment must include:

- A determination of the veteran’s status, which can be ascertained by review of their DD-214.
- A review of their complete criminal history, including any history of prior or current treatment court participation.
- An assessment of the danger the veteran poses to the individual, others, or the community.
- A review of their substance abuse history.
- A review of their mental health history, with a legislative preference for a VA clinical assessment.
- A review of any special needs of the veteran which may inhibit their ability to participate.

The veteran’s participation in the VTC is voluntary. By choosing that option, the veteran may receive a lesser charge or sentence. In return, they commit to months of rigorous accountability, which entails a much more invasive and time consuming process than a simple fine, a brief sentence, or traditional probation.

The type of veteran-participant invited into the program should be defined before starting. Of particular importance is defining the level of crime the VTC is willing to accept, such as misdemeanors, non-violent felonies, or domestic violence. Misdemeanors can often be a gateway to more serious offenses, and using the VTC to intercede in the veteran’s life can prevent trouble from escalating. Other treatment courts only handle non-violent felonies, and a newly constituted VTC can consider limiting itself to these types of crimes. Keep in mind that a prosecutor may be much less likely to waive or dramatically reduce a felony charge. If this is the case, the potential pool of veteran-participants may be significantly limited.

One of the most crucial stages for identification of potential participants is during the initial point of police contact. The VTC should work with the police department to incorporate a method for determining prior military service during the booking or citation phase. It is important to consider how to frame the question; however, as many people define veteran status differently. Therefore, it is essential to pose the initial veteran-status question broadly. For example, one could ask, “Did you serve in the United States military?” or “Do you have prior military service?” In practice, incorporating a method to identify veterans will likely include a change in police procedure. Moreover, the citation could be coded differently if the person identifies himself or herself as a veteran. Consequently, the police department should receive some training about the purpose of the VTC; relaying the benefits of the VTC and the unique characteristics of a veteran-arrestee will foster police support.

The next phase to identifying veteran-participants is in the courtroom. It is best to identify the veterans from the earliest point in the case possible. For example, the citation or case file should denote veteran status, which can be done by introducing a color-coding system for these files that

permits easy recognition that the defendant is a veteran. Moreover, identification at this early stage may depend on police department cooperation, as they are usually first to know if the defendant is a veteran (via the interaction during the citation or booking procedure). The court should not rely solely on the police department for veteran identification, as some veterans may be unwilling to reveal such information or the question could be overlooked.

Even if defendants do not self-identify as a veteran during the booking or citation phase, it should not be assumed the defendant is not a veteran. The court should implement a new procedure to ask each defendant about military service. Consequently, at each stage of the judicial process, a defendant should be queried as to their potential status as a veteran. In practice, it is helpful to complement the veteran inquiry with a reasoning statement, such as, "Certain programs may be available to veterans. Do you have prior military service?" This practice eases the veteran's anxiety to answer in the affirmative out of fear of parallel sanctions and will create a more relaxed environment.

In sum, the court should attempt to integrate a veteran status inquiry during arraignments, at pre-trial, throughout the presentence investigation, before sentencing, and on plea-by-mail forms. When identification occurs, then he or she should be referred to the VTC for eligibility screening. Although there is no systematic method yet to track veterans post-conviction, it is helpful to identify veterans already in prison or on parole or probation. This may include asking the probation and parole officers to incorporate a veteran status question during their meetings with current defendants. If a veteran is identified, he or she should be referred to a veteran defense counsel, as options may be available to the veteran or they may have other cases pending, which could be addressed through the veteran defense counsel.

In the end, the court should review the entire criminal process, from the initial contact with police to the probation process, and create procedures at each step to identify the most number of eligible veterans.

Qualified veteran-participants must be willing to obligate themselves to the program and choose to transform themselves into veteran-participants. The straightforward threshold qualification is military service. It is not necessary to reach a critical mass of veteran-participants before starting a VTC. What is more important is that veterans within the community know of the program. The VTC should be well accepted and well publicized to the point of being common knowledge in the community.



PART II: A TEAM BASED CONCEPT

Assembling the VTC Team

Due to the rehabilitative nature of the VTC, the members of the VTC team need to be committed to a non-adversarial, rehabilitative system that is designed to benefit veterans and the community. Team members must be more than passive participants; without committed individuals, a VTC may not be able to sustain itself or produce its intended result.

The enabling legislation requires the court to include the prosecuting attorney; a criminal defense bar representative; community treatment providers; a representative of a local veterans service organization (VSO); and a representative of the U. S. Department of Veterans Affairs (VA) in a Memorandum of Understanding (MOU) (MCL 600.1201(2)).

Thus, the following individuals, including those required by statute to execute the MOU, should be approached as members of your team:

1. Judge(s) (note that it may be necessary to obtain support from other judges in the jurisdiction)
2. Veteran mentor-coordinator
3. Case manager(s) and/or probation officer(s)
4. Veterans Justice Outreach Coordinator
5. Representative of the prosecutor's office
6. Representative from the defense bar
7. Treatment provider(s) and/or treatment agency(s) from both the VA and non-VA agencies
8. Representative(s) of local law enforcement
9. Representative(s) of local substance abuse coordinating agency
10. Representative(s) of local services such as Michigan WORKS!, GED programs, transportation services
11. Veteran mentors
12. Student interns

Courts should gauge the level of participation of program members because not everyone is needed at all stages of the program, but the support of these members is critical to the program's long-term success. Moreover, when approaching the potential team members, it is important for the court to try to recruit those who are dedicated to and have a demonstrated interest in veterans' issues.

It is crucial to have prosecutorial support (cf. MCL 600.1205(2) & MCL 600.1206(1) (c)) as the program would be severely limited in its scope without it. The prosecuting attorney is a necessary party under MCL 600.1201(2) when the veteran treatment program includes a veteran-participant that may be:

- Eligible for discharge and dismissal of an offense.
- A delayed sentence.
- Deferred entry of judgment.
- A sentence involving deviation from the sentencing guidelines.

If the program does *not* include the possibility of these outcomes, the court is not required to include the prosecuting attorney. Nevertheless, without the ability to offer those certain remedies to the criminal conduct at issue, the program would likely be inadequate. Consequently, the best practice is to include a prosecuting attorney within the program.

The defense attorney should be willing to voluntarily serve the VTC. This individual should reach out to the community and actively identify veterans that have been arrested. The role of the defense attorney is critical: she or he must identify veterans who would otherwise be ordinary criminals, and invite them off of the typical criminal path, thereby disrupting the cycle of criminal behavior.

The probation officer (PO) will need to be dedicated to the veterans under his or her care. The work of the PO may often look more like social work than that of a traditional PO. It is also very helpful, although not critical, that the PO has someone to shadow him or her during all of their interactions with veteran-participants. This not only provides another pair of eyes and ears, but also provides a backup, removing the onus on the PO to be ever-present.

The Judge

This is essentially *your* VTC - you have accepted the responsibility of running and maintaining a diversionary court to assist in the rehabilitation of our nation's veterans. You have thereby assumed many responsibilities that a typical judge does not, and veterans and communities are counting on you to succeed. You must be willing to adjust yourself and your courtroom to facilitate this responsibility.

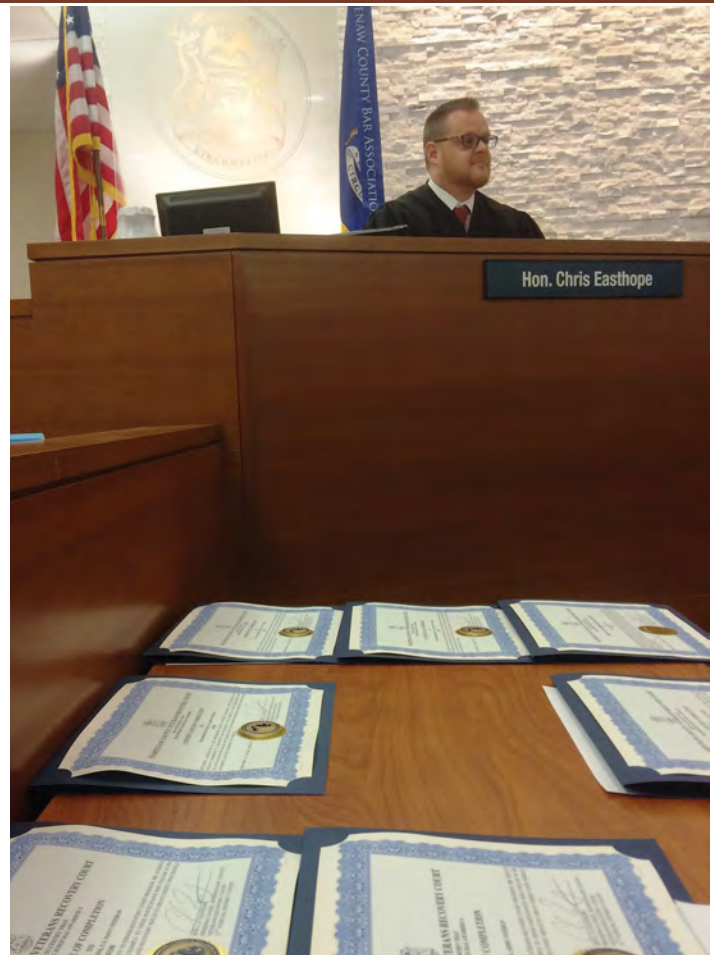
Allow the veteran-participant to self-report during court hearings. This forces the veteran-participant to be accountable for their treatment. Think about placing the mentor and probation officer on each side of the veteran-participant during the hearing to confirm the veteran-participant's progress and provide positive reinforcement.

During the first hearing, consider keeping the proceedings limited to a guilty plea and sentencing. The probation officer, mentor, treatment professional, and Justice Outreach Social Worker can make initial contact before the next court date. On the second court date, consider using the time to gather information about the veteran. Ask open-ended questions and allow the veteran to tell their story.

Consider asking some of the following questions:

- Tell me about yourself. What is your age?
- How did you end up in the military?
- When did you serve?
- Where did you deploy?
- When did you get out of the service?
- What have you been doing since then? Then what?
- How did you get into trouble? What led you here?
- What do you like to do?
- Where do you live?
- Where are you from (establish roots)?
- Who do you live with?
- Do you have family nearby? Ask about family history.
- Are you married?
- Do you have kids? How old are they? (motivating factor for rehabilitation)
- Do you keep in contact with military friends?

NOTE: Be very careful about discussing mental health or substance abuse treatment in open court, due to confidentiality laws (MCL 600.1207(2)). Also, veterans are often very private individuals. Many of the questions may be better asked by the PO during a one-on-one meeting.



Also, give the veteran-participant a chance to openly speak about anything they wish through more open-ended questions like the following:

- Is there anything you would like to bring up?
- Is there anything else you want to talk about?
- Is there anything on your mind?
- Do you have any questions?

It is paramount, especially at the first few court sessions, to remind the veteran-participant that they have a committed team behind them and that you require that he or she commit himself or herself as well. This also acts as a reminder to the team that they are under a similar duty. As the judge, after you have the veteran-participant sign a contract, give him or her the original and keep a copy. Ask the veteran-participant to put the contract on the refrigerator or a place of prominence in the home where he or she will see it the most often.

At the end of each court session, always ask the mentor and PO to comment on the veteran-participant's progress or shortcomings. This allows the two people who have the most contact with the veteran-participant to provide additional feedback.

The Mentor Team

Mentor Coordinator

The Mentor Coordinator role is essential to the operation and success of a VTC because it ensures that justice-involved veterans receive support and mentorship by their fellow veterans. The coordinator can be one of any existing team members or be an additional individual on the team. But like all other team members, the coordinator must be motivated and dedicated. The coordinator will have a variety of responsibilities determined by the court, such as: recruiting, screening, training, supervising, assigning and coordinating mentors, and record keeping.

VTC Mentor Coordinator duties include:

- Liaisoning with the Court on the veteran-participant's progress and participation with the assigned mentor.
- Assisting the Court in the establishment and operations of a mentor recruitment program to assure a sufficient number of available participants.
- Developing and implementing a mentor matching process to ensure a supportive and productive relationship between the veteran-participant and the mentor.
- Coordinating the mentor orientation program and ongoing training for mentors.
- Communicating frequently with mentors on operational issues (i.e. time and date of court hearings, frequency of mentor/mentee meetings, etc.).
- Collaborating with other VTC team members to identify resources and services to support the treatment and recovery of the justice-involved veteran.
- Attending all court sessions and carrying out other duties as assigned by the VTC coordinator and/or judge.

Essential skills and requirements:

- Be a veteran from one of the branches of the United States military, or from one of their corresponding Reserve or Guard branches, or be in Active Duty status. Combat veterans should be encouraged to apply.

- Supportive and understanding of the various difficulties veterans may experience.
- Knowledge of local veteran services and VA benefits and/or VA health care is preferred.
- Strong verbal communication skills.
- Tolerant and respectful of individual differences.
- Commitment of 10-15 hours per week.
- Commitment to the position for 18-24 months preferred.
- Participate in training as deemed appropriate by the Court.
- Signed confidentiality agreement.
- Not be currently on probation or parole for the conviction of any crime (felony or misdemeanor).
- No felony or misdemeanor convictions within the past three years and able to pass a security background check.

Recruitment - Each mentor program should incorporate opportunities to recruit mentors within the geographical location around the court. Not surprisingly, the local VSOs are a great resource for the mentor recruitment process. Moreover, all team members should advocate for the program when the opportunity arises, as word-of-mouth often is just as important as other forms of advertising. Many courts have found their VTC graduates to be excellent and willing mentors.

Screening - A screening process should be created to ensure only the most ideal mentor candidates are involved with the program. The process will likely include a candidate questionnaire, an interview with a court staff member (likely the mentor coordinator), and a background check. The decision to accept or deny an application should be discussed amongst the VTC team and can be determined solely by the mentor coordinator or through discussions with, and recommendations by, other team members.

An essential requirement of a mentor is that they be a veteran of one of the branches of the United States military, or their corresponding Reserve or National Guard branches. Experience has shown that veterans are more likely to respond favorably to another veteran than with another person who may not have had similar experiences. Veterans, when talking with other veterans, will be more relaxed and less tense about their situations. This change in demeanor makes a deeper impact on the lives of the veterans.

Potential mentors must also be willing to:

- Adhere to all of the policies and procedures as established by the court.
- Commit to act as mentor at least for the duration of their mentee's participation in the program.
- Complete the required training and participate in additional trainings as needed.
- Undergo a criminal background or driving record check, especially in those instances where the mentor may assist the veteran-participant in transportation to and from meetings.

To be most effective, a veteran-participant should be partnered with a mentor from the same branch of service, with military experience from the same conflict era, and with the same skills training. MCL 600.1207(1)(b) advises that it is "the intent of the legislature that... the assigned mentor should be as similar to the individual as possible in terms of age, gender, branch of service, military rank, and period of military service." The need for a veteran-mentor from the same branch of service and conflict for compatibility has widespread support.

The court must determine the criteria for selection of its mentors. Knowing the characteristics an ideal mentor should have will assist the court to determine whether a candidate is appropriate in the mentorship role. Some qualities may include the following: a willing and active listener; someone who can be encouraging and supportive; someone who is tolerant and respectful of individual differences; knowledge of VA services; and knowledge of community resources and services.

Training - Once mentors are selected, they must be trained. The mentor coordinator should oversee training. It must be stressed during training that the mentor must not promise any outcomes for the veteran. Training can include a variety of options, such as observing court sessions, visiting other VTCs, shadowing current mentors, and attending mentor-only sessions that discuss the mentor-mentee relationship. As with the military, training is an on-going requirement which must be revised when needed.

Supervision, Assignment, and Expectations - The mentor coordinator will supervise the mentor program to ensure each mentor is abiding by the rules and addressing problems that may arise. Again, in assigning the mentor with a veteran-participant, it is important to try to make the

assignment as early as possible and attempt to match the military branch and war-era of each veteran-participant with the mentor while considering the requests of each veteran and mentor regarding assignment. Moreover, the mentor coordinator should ensure the mentor attends each of his or her veteran-participant's court sessions and must be available to the veteran-participant outside of court.

Documentation and Record Keeping Policy - Each court needs to determine how to document contact between the mentor and the veteran-participant. It is important for the mentor coordinator to track the communication because, as a veteran-participant in the program, the veteran is usually required by the Court to meet regularly with his or her mentor. This could be done via a Veteran Mentor Log written by the mentor that can be kept in a binder. The veteran mentor should take the assigned veteran-participant's binder with them during any mentoring session and document the mentoring session in the log. After the session, the mentor should return the log back to its appropriate place, usually somewhere locked in the courthouse.

Note that the statute only requires a "mentorship relationship" with another veteran of similar age, gender, military branch, rank, and period of service (MCL 600.1207(1)(b)) for "support, guidance, and advice." The court and the mentors, with input from the probation officers, VA, and other treatment providers, must determine and develop the extent and structure of the mentor program. It is preferable that a veteran-participant be assigned a mentor who will support them throughout the entirety of his or her time in the program, to build as strong and trusting a bond as possible.

Confidentiality Policy - Confidentiality is an essential piece of successful mentoring. Statements and other information obtained through treatment, assessment, or testing are confidential and exempt from Freedom of Information Act disclosure (MCL 600.1207(2)). The scope of confidentiality applies to any statements made by the veteran during the pre-admission screening or evaluation assessment as well, with exceptions for admissions of criminal acts other than the use of controlled substances (MCL 600.1203(4)).

Veteran-participants need to know that their sessions with a mentor are also confidential. Veteran mentor training should include a mandatory confidentiality workshop and/

or signing of a confidentiality agreement. In addition, guidelines will be reviewed specific to what information should be included and should not be included in the Veteran Mentor Log, as well as how information about the mentors will be protected.

Also note that while publicity can be beneficial to both inform the community of the successes of the program and to recruit volunteers and mentors, care must be taken to guard the veteran's privacy.



Mentor

The role of a veteran mentor is to provide support and guidance to veteran defendants as they progress through the VTC. The mentor is a role unique to VTCs as they are private citizen volunteers matched with defendants based on their branch, era, rank, and combat exposure.

The mentoring component of a VTC fills the gap between the veteran-participant and the court system. In a sense, a mentor serves as a middleman, an interpreter, or a conduit between two foreign entities. Mentors are, first and foremost, willing to listen to veteran defendants. They are valuable sounding boards for their mentees, who are struggling with addiction and/or mental health issues. Mentors can provide valuable information to the court on the veteran defendant's behalf to the efforts he or she has made towards addressing these issues. The mentor builds bridges between the veteran-participant and various team members. They also become the only person outside the court and treatment professionals with whom the veteran-participant is able to speak without repercussions from the court. For this reason, the mentorship aspect must be monitored to ensure the veteran-participant receives the proper and necessary support.

Mentor duties include:

- Attending all scheduled court hearings.
- Communicating frequently with their mentee to provide ongoing support and encouragement and ensuring they are following their treatment plans, attending appointments, etc.
- Assisting their mentee in answering questions they have about the court procedures and accomplishing

the conditions set by the court.

- Staying in contact with the mentor coordinator and providing him or her with progress updates on their mentee, raising any concerns about their mentee's behavior or circumstances, and staying up to date on mentor trainings, meetings, etc.

Mentor requirements:

- Be an honorably discharged veteran of one of the branches of the United States military (including National Guard and Reserve branches).
- Be available to attend court hearings and other meetings as needed.
- Complete mentor training and any additional training as requested by the Court.
- Maintain confidentiality regarding a defendant's case and personal information.

A judge must be ready to replace a veteran-participant's mentor or even remove the mentor from the program. A mentor's inability to perform their duty may occur for a number of reasons. First, since mentors are typically veterans themselves, the team must be cognizant of any combat-related issues that the mentor may have that are negatively impacting the veteran-participant. It is one thing for the veteran-participant and mentor to connect, but if a mentor's combat-related issues are unaddressed, it could be dangerous to entrust the person to be an advisor for another veteran when the mentor is experiencing the same issues. A mentor may also become ineffective for reasons unrelated to their military-related issues. There is not a straightforward ideal mentor for a VTC; however, a mentor should be motivated and committed enough to dedicate the necessary

time and attention to a veteran-participant while they are in the system. Hopefully, if the mentor notices that they are unable to fulfill this obligation, they will ask to be replaced before it becomes a problem. A judge should make a mentor aware that the line of communication is always open and whenever they cannot fulfill this obligation the judge and team will understand and respect the mentor's honesty.

As noted above, the judge or coordinator should pair veteran-participants and mentors after careful consideration. The history or circumstances of either party may make them unsuitable to work together. Matching all of the criteria, military occupational specialty, branch of service, age, and gender, is unlikely to always occur. Gender, in particular, if the veteran-participant is a female and has a history of physical or sexual abuse, should be weighed more heavily than the other criteria. In such a case, it would absolutely be inappropriate to place the female veteran-participant with a male veteran-mentor.

Defense Attorney

While a defense attorney is traditionally utilized during the initial guilty plea and sentencing, once the veteran-participant agrees to enter the program, it is important the defense attorney remains part of the team. If a veteran-participant fails to follow court orders, especially in a case where the judge could potentially terminate the veteran-participant from the program, order jail time, or order them to appear in another court, the veteran-participant should be represented to ensure his or her rights are protected throughout the process. Additionally, the defense attorney provides an important voice for participants in this non-adversarial process. Defense attorneys should attend team meetings and court hearings to provide input and recommendations on issues such as incentives, sanctions, and probation requirements.

Prosecuting Attorney

A prosecutor provides another important voice to the team. Prosecutor input is important when considering sanctions, especially for probation violations. If the veteran-participant fails to follow a court order or has another legal issue arise, the prosecutor can provide assistance and valuable input. The prosecutor is also necessary in situations where the judge is reconsidering the veteran-participant's sentence.

Probation Officer

One of the most overlooked team members in a VTC may be the probation officer (PO). The PO will not only maintain supervision over the veteran, he or she may also direct the operation of the VTC program. While the veteran is required to make frequent appearances before the judge, the veteran should meet even more often with a probation officer. The PO becomes the primary enforcer of each aspect of the court's order of treatment. The PO not only assures a veteran-participant's compliance with probation requirements, such as regular and random drug and alcohol testing or community service, but also ensures the veteran is complying with their individualized treatment plan and maintaining contact with the mentor.

As a result, the PO should be present at all team meetings and court proceedings, should assure the continuity of the veteran-participant's supervision and treatment, and have continuous interaction with the veteran-participant to maintain their trust. Maintaining an effective treatment court on a long-term basis depends on the PO or case manager, as they are the backbone of an effective VTC.

VA Treatment Professionals

The Veterans Justice Outreach Social Worker (VJO) is the key link between the Court and the Veterans Health Administration. A VJO is assigned to every VTC to provide case management services for all VA-eligible veteran-participants. This team member is responsible for ensuring the veteran-participant is quickly assessed for any mental, physical, or behavioral issues and enrolling him or her in the appropriate VA programs and services. The VJO is a very helpful resource as these practitioners come with the broad and varied resources of the VA health system as well as knowledge of those systems.

One of the unique and compelling aspects of a VTC is access to established veteran treatment facilities that require no additional funding considerations through the Veterans Health Administration. The VA treatment professionals should be viewed as the veteran-participant's primary provider of health services. But keep in mind that every VA facility is uniquely structured and administered. VA facilities vary in size, types of available treatment, number of treatment professionals, etc. With that said, a veteran-

participant may not end up in VA treatment, so the Court must ensure they establish local treatment options, such as those discussed in the next section.

If a veteran-participant is being treated at a VA facility, they may use acronyms, VA building names and numbers, and other military terms when self-reporting their progress. It is important for you and the team to become familiar with the facility and the name of treatment programs to follow along. By having an understanding of the facility, you and your team will show veteran-participants that you are that much more knowledgeable and invested in their recovery. This may require team members to tour the VA facilities their veteran-participants use. The VJO can provide explanations about certain VA facilities and treatment options during the meetings or during the court session.

Non-VA Treatment Professionals

Although a VA treatment professional may be in the best position, through training and resources, to assist in a veteran's recovery, it may not be geographically convenient for the veteran-participant to use VA services. While it is preferred that the Court refer the veteran-participant first to the VA, non-VA treatment professionals may be used if they have an understanding of military-related issues and treatment of these issues. When a court places a veteran with a local treatment professional without an acute understanding of military-related issues, the veteran may not receive the specialized treatment they need.

When a VA facility is not geographically convenient to the veteran-participant or the court's jurisdiction, a local non-VA treatment professional may be the best option. Of course, the VTC needs to take into account allocating funding to these non-VA treatment professionals and remain cognizant of the type of treatment the veteran-participant is receiving to ensure the best rehabilitative environment is created.

If you use a local treatment professional, especially when the veteran-participant first enters the program, ensure the veteran-participant understands that they may not see the local treatment professional on a long-term basis.

Veteran Service Organizations

The statute provides that local Veteran Service Organizations (VSOs) are a necessary party to the VTC MOU (MCL 600.1201(2)). VSOs must be from the court's jurisdiction (MCL 600.1201(2) and must be accredited veterans organizations by the VA, pursuant to 38 CFR 14.628. MCL 600.1200 (k). The VSOs can provide support in a number of different ways, including recruiting mentors, identifying other veteran resources and support organizations, and volunteering logistical support for VTC events.

Coordinating with Outside Resources

Many members of a VTC team - the judge, the defense attorney, the prosecutor, and the probation officer - are part of the judicial system. But, as discussed in this manual, there are outside entities that make up the team as well, including VJOs, VA treatment providers, county veteran services agencies, community-based programs, and non-VA treatment personnel. A court should seek out veteran services available in their communities or should contact the Michigan Veterans Affairs Agency to ask about services available in their area. Courts should participate in regional veteran community action teams, where available, to access a variety of veterans services.

County veteran services offices and VSOs (such as Veterans of Foreign Wars, American Legion, and Vietnam Veterans of America) provide local assistance to veterans and their families. These organizations and individuals can be very important members of the court team as they have expertise in the development of VA benefits applications, as well as knowledge of other financial resources available to the veteran-participants. VSOs are also valuable partners for mentor recruitment and advocating for your court and participants. To locate a county veteran service office or VSO in your area, visit MichiganVeterans.com or call 800-MICH-VET (800-642-4838).

Team Meetings

The intent of team meetings is to provide a collaborative focus on a veteran-participant's progress, potential setbacks, and outcomes. One of the key principles of the VTC process is that it should be non-adversarial (MCL 600.1201(1)(b)). If every member is working toward a common goal, every member's opinion is worth considering and must be focused on the best outcome. Also, the team is composed of a variety of people for a reason. Each member has their own specialties, education, experience, and knowledge as a professional, and possesses a unique knowledge and impression of the veteran-participant through their interactions. The way a veteran-participant interacts with each team member may provide insight to which treatment plan is best.

Designate the team members responsible for the on-going administration of your VTC team. Just as the team members of your VTC should have attended other VTCs prior to commencement, you should invite nearby VTC team members to attend your initial VTC meeting and court session. These individuals can provide feedback to make immediate corrections, if needed. Essentially, the wheel already exists, so why build it again? Utilize these individuals to ensure that you provide the most efficient and effective VTC for yourself, your team, the veteran-participant, and most importantly, the community.

Veteran-Participant Access to the Court

Depending on the distance between the court, the veteran-participant's residence, and the VA or other treatment facilities, adequate transportation becomes a major factor in the success of many veteran-participants. Limited access to transportation poses a problem, whether for the veteran-participant attending court hearings or for other requirements, such as community service, drug testing, or treatment appointments. This problem increases when the veteran-participant lives some distance from the court, treatment facilities, or the VA.

Courts can provide bus fare and gas cards to offset these expenses for veteran-participants. Veterans or courts can also call 800-MICH-VET (800-642-4838) to learn about available transportation resources in their area. VSOs, such as the Disabled American Veterans, provide some transportation services to VA facilities and other medical appointments. Local transportation districts also provide special transportation accommodations for the disabled and those unable to drive. Lastly, a mentor can transport a veteran-participant when necessary. This option should only be utilized after all other public transportation options have been exhausted because of liability concerns.

It is recommended that a judge remain cognizant of the veteran-participant's ability to access the court. The judge should make accommodations when practicable, such as assigning a PO fewer clients to free up time needed to visit the veteran on at least a biweekly basis.



PART III: ADMINISTRATION

Prepare to Launch

Once a veteran-participant enters the VTC program, a judge must consider how they will reconfigure their courtroom to facilitate the rehabilitative process. Considerations include how close the veteran-participant is to the judge; who accompanies the veteran-participant before the judge; where different team members sit in the courtroom; and in which order veteran-participants will see the judge.

As stated, one of your goals should be to create an environment that transforms the veteran from a defendant to a veteran-participant in the program. In a traditional court structure, the judge controls the courtroom process by communicating with the defense attorney and prosecutor. A VTC program should rely on a system of self-reporting by the veteran-participant, with the judge asking open-ended questions allowing the veteran-participant to take responsibility for their success and failure.

Generally, veteran-participants should be required to sit through the entire VTC docket. One effective technique when incoming veteran-participants are present at initial sentencing or at the first few court sessions is to place them at the end of the docket. By placing new veteran-participants at the end of the docket, the judge allows them to witness other veteran-participants at different phases in the program and get a better understanding of the overall process, and to observe other veterans in the program and to learn what they need to do to succeed. If an incoming veteran-participant is placed first on the docket, they can possibly sit down afterward and ignore the rest of the proceedings or simply exit the courtroom at the conclusion of their proceeding. As they sit through hearings together, and participate in training and enrichment programs, they develop supportive relationships which are shown through their applause and words of encouragement before, during, and after hearings. Although this is just a recommended process, the purpose is for the judge to consider the best order to allow for the most optimal experience for all veteran-participants.

The initial meeting with incoming veteran-participants allows the judge and other team members to accurately record necessary information. Where there is a substance abuse issue, the most important information is the number of days that the veteran has remained sober or clean. A VTC does the veteran-participant (and the Court) a disservice

when they cannot accurately account for and track a veteran-participant's progress toward sustained sobriety. A VTC must also set clear court-ordered rules for treatment and conduct, such as, where the veteran-participant must stay; what they are allowed to do; what medications they are allowed to take; and what treatment they must attend. This must include acknowledgment of the consequences for non-compliance.

Clarity in some areas, such as specific treatment progress or the veteran-participant's living situation, can be difficult to anticipate and track, especially at the beginning of the program. By annotating the judge's instructions to the veteran-participant and providing the veteran-participant and team members with a copy of the court orders, ambiguity is avoided. This will help eliminate the veteran-participant's ability to create excuses for failing to follow court orders and hold everybody accountable throughout the program.

Your first VTC date can be a highly anticipated and well-publicized event. As a result, team members, court officials, veteran-participants, spectators, and others will fill your courtroom, many of whom may never again attend a court session. You should address the significance of the event and create a slightly "grander" environment than normal. You should consider making a point to those initial veteran-participants that the ongoing VTC is no dog-and-pony show, and although the court date may be highly publicized, things will calm down on the next date. Also consider addressing this at the second court date.

Remain humble on the first day and continue to remain humble as a judge and VTC team member thereafter. Everybody knows that you are starting a new treatment court - even the veteran-participants. Acknowledge on the first day that there may be some kinks in the line. Ask everyone to remain patient with you, and likewise you will remain patient with them. Remember, a VTC is non-adversarial in nature. This means that there is a built-in level of reasonableness, understanding, and flexibility. Why not use this initial day to establish this atmosphere?

Use the first day to further establish the relationships between all of the team members. Make it a point that you expect a lot of changes after the first day - improving what worked and changing what did not. Every team member must be part of this evolution. The first day may not be perfect, but you will have time before the next

VTC session to alter the process. Use this time to gather ideas from every individual, even the veteran-participant, and make immediate improvements. A veteran has had prior experience with bureaucracies from their time in the military and, perhaps, had experience with people unwilling to correct deficiencies. They will appreciate candor and alterations throughout the process.

The Nonadversarial Approach

Since the goal of a VTC is rehabilitative by nature, the team should act and react according to the veteran's participation. When the veteran-participant is following court orders, engaging with his or her mentor, and attending treatment, the treatment team's mission can remain rehabilitative, a structure of non-adversarial support.

A motivated VTC team becomes effective and remains effective through a continuous pursuit of knowledge and understanding about veteran issues and the traumatic experiences which contribute to their criminogenic behaviors. There exist numerous opportunities to interact with service members and veterans as well as training programs throughout the state and the nation.

Remember that the veteran-participant is also deciding to trust you and the rest of the team. Once a veteran sees that you, as a civilian, have made an effort to understand and sincerely want to help, you will begin to gain their trust. That is accomplished through actions, sincerity, honesty, and respect. In a sense, you gain the trust of a veteran by making him or her a part of the team.

In sum, throughout the administration of the VTC, the Court will be in a nonadversarial mode (MCL 600.1201(1)(b)). Veteran-participants sign an agreement at the beginning of the program that acknowledges their understanding of the consequences of failure. Thus, even program failure is not truly an adversarial proceeding, as the veteran-participant has already agreed to the scope of consequences. When the veteran-participant is in compliance with the VTC requirements, the court is essentially a treatment and rehabilitation facilitator.

Participant Failure

Sometimes a veteran-participant will not comply with program requirements and/or court orders. When a veteran-participant fails to meet the requirements of

the program, the VTC will be in more of a traditional adversarial courtroom, when the range of punishments or sanctions, including jail time, arises.

When additional sentencing or complete removal from the program is required, a prosecutor must be, and a defense attorney should be, present to adequately represent their sides and ensure the court does not violate the veteran-participant's rights. So although the defense attorney and prosecutor may have a more passive role during a successful veteran-participant's involvement, they must remain on standby for such occasions.

Incentives

We all need rewards and incentives in life. A veteran-participant walking in and out of court every time without tangible, as well as emotional, reward or recognition may lose the motivation to improve him or herself. A court can provide numerous incentives and acknowledgments for the veteran to leave with actual identifiable events that demonstrate their progress.

The judge should acknowledge the veteran's progress both through qualitative and quantitative measures. During the veteran-participants' self-reporting of progress in treatment and probationary requirements, the judge can address the qualitative progress that the veteran-participant attends each meeting and can articulate what they receive from the treatment. But it is also necessary to remind the veteran-participant of the number of days they have been in the program and the number of days they have remained in good standing since their offense. This reminds the veteran-participant of their goal and that they are getting closer to that goal; that there is hope and an end in sight. This provides the judge with a veteran-participant's measurable success and allows them to reward the individual accordingly. The reward could include lowering the fines and costs the veteran-participant owes to the courts, or ancillary incentives, such as gas cards that help them get to and from court hearings, employment, or appointments.

A veteran-participant will spend roughly 18 months in a VTC program. This can be a long and arduous time, as the veteran-participant is attending numerous meetings, sometimes daily. The relationship between the veteran-participant and his or her team members is vital to providing the support and motivation needed to persevere throughout the entire program. The veteran-participant may even receive inpatient treatment at the local VA.

Because of the longevity and intensity of the program the Court must use an individualized approach to encourage and motivate the veteran-participant.

Advancement Through the Program

One of the greatest incentives is to publicly recognize veteran-participants' progress throughout the program. This recognition serves to remind veteran-participants that the VTC program will keep them accountable, that the team and the community care about their progress, and to encourage them to continue through the process.

A worthwhile technique is to offer a round of applause after each veteran-participant's positive report of progress. Alternately, if there is no progress or a negative report, no applause or positive reinforcement is offered.

Certain benchmarks throughout each of the phases should be established for every veteran-participant. These may be unique to each individual, given their criminal charges or personal struggles (e.g., advance out of a phase if one completes certain course work or vocational training), or they may be more generally applicable (e.g., offered to any veteran-participant who stays sober for six months or a year). As veteran-participants progress through each phase, the VTC may choose to acknowledge them during the individual's scheduled hearing. This could be done with a simple announcement and a round of applause, a certificate of completion, or congratulatory or encouraging comments from the mentor, judge, or other team members.

It is important to consider using tangible incentives for veteran-participants. Many courts use challenge coins to reward progress through the phases or at graduation. Other token incentives include gift cards, candy or snacks, or financial incentives such as a reduction in fees.

Graduation

Upon the successful completion of all VTC requirements, veteran-participants will benefit from a graduation ceremony. This may be offered on the same day as a regular hearing, but at a distinct time.

The ceremony is a signal to the veteran-participant that he or she has successfully fulfilled their duty, which itself is a new beginning. The ceremony signals the end of the program, but more importantly that the veteran-participant



is ready to begin a new stage of their life with tools and support. The graduation ceremony serves as public proof that the veteran-participant has successfully completed the requirements and, with the team's endorsement, the veteran is being offered back into the full life of the community. They are now entirely free and given the responsibility to pass on what they have received to their families, fellow veterans, and communities.

The community should have a public and open invitation to attend each ceremony, and local media should also be invited. This opportunity is offered to the public to applaud the success of the veteran-participant, to show the transparency of the program, and to demonstrate the role of the community in the lives of the veteran-participants. As some VTCs have met with local resistance, the positive publicity of graduation ceremonies can reinforce that the program is worthy of the community's continued support.

In addition, any media attention will serve as publicity for other veterans in the area. It can be a means to recruit new volunteers into the mentor program. It may also attract new veteran-participants who are interested in participating.

There is certainly a valuable human interest story to be told, and any increased community awareness may lead to broader acceptance of the program. Courts interested in publicizing their programs through the media should ask participants to sign a release agreeing that their names and likenesses can be used.

The graduation ceremony need not await a large class. If there are one or two graduating veteran-participants, the honor of graduation can be presented as more coveted and exclusive. The ceremonies should not be too frequent, perhaps two to four per year.

During the ceremony, the role of each member of the treatment team should be acknowledged and everyone on the team should be encouraged to attend. Also in the program, if not during the ceremony, each of the collaborating agencies should be acknowledged.

A sample program might include:

- Opening of the Court
- Presentation of the Colors
- Pledge of Allegiance
- Introductory remarks by the presiding judge
- Introductions of any guests of honor
- Moment of meditation
- Remarks by local or state official, judge, or veterans organization
- Introduction of graduates and any family members by the mentor coordinator, with any comments welcome from their mentors or other team members
- Remarks by the graduates
- Presentation/exchange of any commemorative coins by the mentors to the graduates
- Presentation of certificates to graduates and formal signing of documents for the court
- Retire the Colors
- Adjournment
- Refreshments

Tracking Success

The 2013 Michigan legislation creating VTCs has institutionalized a therapeutic form of justice grounded in demonstrated success across the country. As courts mature and grow, data will illustrate the short- and long-term outcomes of this unique approach to rehabilitation. In the meantime, Michigan's VTCs will continue to promote their graduates and learn more sophisticated methods for guiding their veteran-participants.

For their service to our country, veterans have earned a second chance. Through a VTC, the bench and bar can ensure that the veteran receives that chance and that it is the only one he or she needs.

Conclusion

Always remember that a veteran is a changed person; their individual experience in the military altered them in a way that makes living in the community they once called home more difficult. We can ignore the situation and lock them behind bars or we can address the situation head-on. And although we put the responsibility on the veteran-participant to follow through with the program, the responsibility is equally on the VTC team to facilitate the rehabilitation process - the veteran-participant and the community are counting on you to make a difference. Remind yourself that you become much more than an enforcer of the law - you become a facilitator of a veteran-participant's rehabilitation and eventual reacclimation into their community.



Thank you for establishing a Veterans Treatment Court!

RESOURCES AVAILABLE FOR VETERAN TREATMENT COURT MEMBERS

Resources for Court Professionals

State Court Administrative Office

[Courts.mi.gov/administration/admin/op/problem-solving-courts/pages/veterans-treatment-court.aspx](https://courts.mi.gov/administration/admin/op/problem-solving-courts/pages/veterans-treatment-court.aspx)

Staff Contact: Dana Graham, grahamd@courts.mi.gov
(517) 373-2218

Michigan Veterans Affairs Agency

MichiganVeterans.com

800-MICH-VET (800-642-4838)

Staff Contact: Lynn Hendges
MVAAStrategy@michigan.gov

Justice for Vets

1029 N. Royal Street Suite 201

Alexandria, VA 22314

(571) 384-1871

National Center for State Courts

[Ncsc.org/topics/problem-solving-courts/veterans-court/resource-guide.aspx](https://ncsc.org/topics/problem-solving-courts/veterans-court/resource-guide.aspx)

300 Newport Avenue

Williamsburg VA 23185

(800) 616-6164

The American Legion

700 N. Pennsylvania St.

P.O. Box 1055

Indianapolis, IN 46206

(317) 630-1200

Resources for Veterans

Michigan Veterans Affairs Agency

MichiganVeterans.com

800-MICH-VET (800-642-4838)

U.S. Department of Veterans Affairs Resources

Detroit Regional Benefit Office

Benefits.va.gov/detroit/

477 Michigan Ave.

Detroit, MI 48226

(800) 827-1000

Eastern Area Office

P.O. Box 303

Ann Arbor, MI 48105

(800) 827-1000

Education (GI Bill)

(888)-442-4551

Combat Call Center

(877) WAR-VETS (877-927-8387)

(800) 273-TALK (800-273-8255)

(877) WAR-VETS (877-927-8387)

Women Veterans Hotline

(855)-VA-WOMEN (829-6636)

VA Homeless Hotline

Va.gov/homeless/vjo.asp#contacts

(877)-424-3838

U.S. Army Garrison - Detroit Arsenal

Garrison-michigan.army.mil/

(586) 282-5000

DEERS / ID Card / CAC Office

USAG Detroit Arsenal
6501 E Eleven Mile Rd, Warren
(586)-282-5941
Dmdc.osd.mil/rsl/appj/site?siteId=105183

John D. Dingell VA Medical Center

Detroit.va.gov
4646 John R Street
Detroit, MI 48201
(313) 576-1000

VA Ann Arbor Healthcare System

Annarbor.va.gov
2215 Fuller Rd
Ann Arbor, MI 48105
(800) 361-8387

Battle Creek VA Medical Center

Battlecreek.va.gov
5500 Armstrong Road
Battle Creek, MI 49037
(269) 966-5600

Oscar G. Johnson VA Medical Center

Ironmountain.va.gov
325 East H Street
Iron Mountain, MI 49801
(906) 774-3300

Saginaw VA Medical Center

1500 Weiss Street
Saginaw, MI 48602
(989) 497-2500

American Legion Veterans Affairs and Rehabilitation

Gary Easterling, Director
Patrick V. McNamara Federal Building, Rm. 1210
477 Michigan Avenue
Detroit, MI 48226
(313) 964-6640

Resources for Lawyers

Michigan Military Bar association

Michbar.org/military/

Thomas M. Cooley's Service to Soldiers Program

Cooley.edu/probono/service_to_soldiers.html

Military Pro Bono Project

Militaryprobono.org
Mary C. Meixner, Director
American Bar Association
321 N. Clark St.
Chicago, IL 60654
(312) 988-5783

While the resources listed should provide valuable information, your greatest resource will be your veteran-focused colleagues. Other treatment courts throughout Michigan and around the country are usually willing to discuss veteran issues and should be solicited along with the resources provided with this manual.



ACT NO. 335 PUBLIC ACTS OF 2012

Approved by the Governor
October 16, 2012
Filed with the Secretary of State
October 16, 2012
EFFECTIVE DATE: October 16, 2012

STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012

Introduced by Reps. Damrow, Glardon, Ouimet, Haines, Tyler, Callton, Hughes, Darany, Lindberg, Bledsoe, Liss, Cavanagh, Ananich, Smiley, Haugh, Dillon, Geiss, Foster, Price, Pettalia, Bumstead, Lyons, Shirkey, Franz, Lori, LaFontaine, Yonker, Rogers, MacGregor, Agema, Rendon, Jenkins, Gilbert, Heise, Potvin, Muxlow, Forlini, Kowall, Johnson, Bauer, Brown, Clemente, Constan, Cotter, Crawford, Daley, Denby, Farrington, Graves, Hammel, Haveman, Hooker, Huuki, Jackson, Knollenberg, Kurtz, Lane, LeBlanc, Lund, McCann, Meadows, O'Brien, Olson, Opsommer, Outman, Poleski, Pscholka, Rutledge, Santana, Roy Schmidt, Wayne Schmidt, Segal, Shaughnessy, Slavens, Somerville, Stamas, Switalski, Tlaib, Walsh, Womack and Zorn

ENROLLED HOUSE BILL No. 5162

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9947) by adding chapter 12.

The People of the State of Michigan enact:

CHAPTER 12

Sec. 1200. As used in this chapter:

(a) "Armed forces" means the army, air force, navy, marine corps, coast guard, or other military force designated by congress as a part of the armed forces of the United States.

(b) "Department of military and veterans affairs" or "DMVA" means the department of military and veterans affairs established under section 125 of the executive organization act of 1965, 1965 PA 380, MCL 16.225.

(c) "Department of veterans affairs" or "VA" means the United States department of veterans affairs.

(d) "Domestic violence offense" means any crime alleged to have been committed by an individual against his or her spouse or former spouse, an individual with whom he or she has a child in common, an individual with whom he or she has had a dating relationship, or an individual who resides or has resided in the same household.

(e) "L.E.I.N." means the law enforcement information network regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(f) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, including, but not limited to, post-traumatic stress disorder and psychiatric symptoms associated with traumatic brain injury.

(g) "Participant" means an individual who is admitted into a veterans treatment court.

(h) "Prosecutor" means the prosecuting attorney of the county, the city attorney, the village attorney, or the township attorney.

(i) "Traffic offense" means a violation of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of a local ordinance substantially corresponding to a violation of that act, that involves the operation of a vehicle and, at the time of the violation, is a felony or misdemeanor.

(j) “Veteran” means any of the following:

(i) A person who served on active duty in the armed forces for a period of more than 180 days and separated from the armed forces in a manner other than a dishonorable discharge.

(ii) A person discharged or released from active duty because of a service-related disability.

(iii) A member of a reserve branch of the armed forces at the time he or she was ordered to active duty during a period of war, or in a campaign or expedition for which a campaign badge is authorized, and was released from active duty in a manner other than a dishonorable discharge.

(k) “Veteran service organization” or “VSO” means an organization that is accredited by the United States department of veterans affairs, as recognized under 38 CFR 14.628.

(l) “Veterans treatment court” or “veterans court” means a court adopted or instituted under section 1201 that provides a supervised treatment program for individuals who are veterans and who abuse or are dependent upon any controlled substance or alcohol or suffer from a mental illness.

(m) “Violent offender” means an individual who is currently charged with or has pled guilty to an offense involving the death of, or a serious bodily injury to, any individual, whether or not any of these circumstances are an element of the offense, or is criminal sexual conduct in any degree.

Sec. 1201.

(1) A veterans court shall comply with the modified version of the 10 key components of drug treatment courts as promulgated by the Buffalo veterans treatment court, which include all of the following essential characteristics:

(a) Integration of alcohol, drug treatment, and mental health services with justice system case processing.

(b) Use of a nonadversarial approach; prosecution and defense counsel promote public safety while protecting participants’ due process rights.

(c) Early and prompt identification and placement of eligible participants in the veterans treatment court program.

(d) Provision of access to a continuum of alcohol, drug, mental health, and related treatment and rehabilitation services.

(e) Monitoring of abstinence by frequent alcohol and other drug testing.

(f) A coordinated strategy that governs veterans treatment court responses to participants’ compliance.

(g) Ongoing judicial interaction with each veteran is essential.

(h) Monitoring and evaluation to measure the achievement of program goals and gauge effectiveness.

(i) Continuing interdisciplinary education promotes effective veterans treatment court planning, implementation, and operations.

(j) Forging of partnerships among veterans treatment court, veterans administration, public agencies, and community-based organizations generates local support and enhances veteran treatment court effectiveness.

(2) The circuit court in any judicial circuit or the district court in any judicial district may adopt or institute a veterans treatment court by statute or court rule if the circuit or district court enters into a memorandum of understanding with each participating prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, a representative or representatives of community treatment providers, a representative or representatives of veterans service organizations in the circuit or district court district, and a representative or representatives of the United States department of veterans affairs. However, the memorandum of understanding will only be required to include the prosecuting attorney if the veterans treatment court will include in its program individuals who may be eligible for discharge and dismissal of an offense, a delayed sentence, deferred entry of judgment, or a sentence involving deviation from the sentencing guidelines. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit or district, the local substance abuse coordinating agency for that circuit or district, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, a representative or representatives of the local court funding unit, and community corrections agencies in that circuit or district. The memorandum of understanding shall describe the role of each party, and the conditions for which the memorandum of understanding must be renewed and amended.

(3) A court that is adopting a veterans treatment court shall participate in training as required by the state court administrative office.

(4) A court that has adopted a veterans treatment court under this section may accept participants from any other jurisdiction in this state based upon either the residence of the participant in the receiving jurisdiction or the unavailability of a veterans treatment court in the jurisdiction where the participant is charged. The transfer can occur at any time during the proceedings, including, but not limited to,

prior to adjudication. The receiving court shall have jurisdiction to impose sentence, including, but not limited to, sanctions, incentives, incarceration, and phase changes. A transfer under this subsection is not valid unless it is agreed to by all of the following:

- (a) The defendant or respondent.
- (b) The attorney representing the defendant or respondent.
- (c) The judge of the transferring court and the prosecutor of the case.
- (d) The judge of the receiving veterans treatment court and the prosecutor of a court funding unit of the veterans treatment court.

Sec. 1202.

A veterans treatment court may hire or contract with licensed or accredited treatment providers, in consultation and cooperation with the local substance abuse coordinating agency, and other appropriate persons to assist the veterans treatment court in fulfilling its requirements under this chapter, including, but not limited to, an investigation of an individual's background or circumstances, or a clinical evaluation of an individual, before the individual is admitted or permitted to participate in a veterans treatment court. It is the intent of the legislature that, services, including, but not limited to, clinical evaluations, drug and alcohol treatment, and mental health services, shall be provided by the VA to the extent that is practical.

Sec. 1203.

(1) 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. An individual is eligible for admission into a veterans treatment court if he or she has previously had an offense discharged or dismissed as a result of participation in a veterans treatment court, drug treatment court, or other specialty court, but he or she shall not have a subsequent offense discharged or dismissed as a result of participating in the veterans treatment court.

(2) In addition to admission to a veterans treatment court under this act, an individual who is eligible for admission under this act may also be admitted to a veterans treatment court under any of the following circumstances:

(a) The individual has been assigned the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(b) The individual has had criminal proceedings against him or her deferred and has been placed on probation under any of the following:

(i) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411, or a local ordinance or another law of this state, another state, or the United States that is substantially similar to that section.

(ii) Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, or a local ordinance or another law of this state, another state, or the United States that is substantially similar to that section.

(iii) Section 350a or 430 of the Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430, or a local ordinance or another law of this state, another state, or the United States that is substantially similar to those sections.

(3) 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. A preadmission screening and evaluation assessment shall include all of the following:

(a) A determination of the individual's veteran status. A review of the DD Form 214 "certificate of release or discharge from active duty" satisfies the requirement of this subdivision.

(b) A complete review of the individual's criminal history and whether the individual has been admitted to, has participated in, or is currently participating in a veterans treatment court, drug treatment court, or other specialty court, whether admitted under this act or a law listed under subsection (2), and the results of the individual's participation. A review of the L.E.I.N. satisfies the requirements of this subdivision unless a further review is warranted. The court may accept other verifiable and reliable information from the prosecution or defense to complete its review and may require the individual to submit a statement as to whether or not he or she has previously been admitted to a veterans treatment court, drug treatment court, or other specialty court, and the results of his or her participation in the prior program or programs.

(c) An assessment of the risk of danger or harm to the individual, others, or the community.

(d) A review of the individual's history regarding the use or abuse of any controlled substance or alcohol and an assessment of whether the individual abuses controlled substances or alcohol or is drug or alcohol dependent. It is the intent of the legislature that, to the extent practicable, an assessment under this subdivision shall be a clinical assessment completed by the VA.

(e) A review of the individual's mental health history. It is the intent of the legislature that, to the extent practicable, this assessment shall be a clinical assessment completed by the VA.

(f) A review of any special needs or circumstances of the individual that may potentially affect the individual's ability to receive substance abuse treatment and follow the court's orders.

(4) Except as otherwise permitted in this act, any statement or other information obtained as a result of an individual's participation in a preadmission screening and evaluation assessment under subsection (3) is confidential, is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, except for a statement or information that reveals criminal acts other than personal drug use.

(5) The court may request that the department of state police provide to the court information contained in the L.E.I.N. pertaining to an individual applicant's criminal history for the purposes of determining an individual's admission into the veterans treatment court and general criminal history review, including whether the individual has previously been admitted to and participated in a veterans treatment court, drug treatment court, or other specialty court under this act or under a statute listed under subsection (2), and the results of the individual's participation. The department of state police shall provide the information requested by a veterans treatment court under this subsection.

Sec. 1204.

Before an individual is admitted into a veterans treatment court, the court shall find on the record or place a statement in the court file establishing all of the following:

- (a) That the individual is a veteran.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) That the individual is not a violent offender.
- (f) 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.

(g) That the individual meets the requirements, if applicable, of a statute listed under section 1203(2).

(h) 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.

Sec. 1205.

(1) If the individual being considered for admission to a veterans treatment court is charged in a criminal case, his or her admission is subject to all of the following conditions:

(a) 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.

(b) The individual pleads guilty to the charge or charges on the record.

(c) 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.

(d) The individual signs a written agreement to participate in the veterans treatment court.

(2) 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).

(3) An individual shall not be admitted to, or remain in, a veterans treatment court under an agreement that would permit the discharge or dismissal of a traffic offense upon successful completion of the veterans treatment court program.

(4) In addition to rights accorded a victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, the veterans treatment court shall permit any victim of the offense or offenses of which the individual is charged, any victim of a prior offense of which that individual was convicted, and members of the community in which the offenses were committed or in which the defendant resides to submit a written statement to the court regarding the advisability of admitting the individual into the veterans treatment court.

(5) An individual who has waived his or her right to a preliminary examination and has pled guilty as part of his or her application to a veterans treatment court and who is not admitted to a veterans treatment court shall be permitted to withdraw his or her plea and is entitled to a preliminary examination.

Sec. 1206.

(1) All of the following conditions apply to an individual admitted to a veterans treatment court:

(a) For an individual who is admitted to a veterans treatment court based upon having a criminal charge currently filed against him or her, the court shall accept the individual's plea of guilty.

(b) One of the following applies to an individual who pled guilty to a criminal charge for which he or she was admitted to a veterans treatment court, as applicable:

(i) If the individual pled guilty to an offense that is not a traffic offense and may be eligible for discharge and dismissal under the agreement with the court and prosecutor upon successful completion of the veterans treatment court program, the court shall not enter a judgment of guilt.

(ii) If the individual pled guilty to a traffic offense or another offense but is not eligible for discharge and dismissal under the agreement with the court and prosecutor upon successful completion of the veterans treatment court program, the court shall enter a judgment of guilt.

(c) Under the agreement with the individual and the prosecutor, the court may delay or defer further proceedings as provided in section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, or proceed to sentencing, as applicable in that case under that agreement, and place the individual on probation or other court supervision in the veterans treatment court program with terms and conditions according to the agreement and as considered necessary by the court.

(2) The court shall maintain jurisdiction over the veterans treatment court participant as provided in this act until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2.

(3) The veterans treatment court shall cooperate with, and act in a collaborative manner with, the prosecutor, defense counsel, treatment providers, the local substance abuse coordinating agency for that circuit or district, probation departments, the United States department of veterans affairs, local VSOs in that circuit or district, and, to the extent possible, local law enforcement, the department of corrections, and community corrections agencies.

(4) The veterans treatment court may require an individual admitted into the court to pay a veterans treatment court fee that is reasonably related to the cost to the court for administering the veterans treatment court program as provided in the memorandum of understanding under section 1201(2). The clerk of the veterans treatment court shall transmit the fees collected to the treasurer of the local funding unit at the end of each month.

(5) The veterans treatment court may request that the department of state police provide to the court information contained in the L.E.I.N. pertaining to an individual applicant's criminal history for purposes of determining the individual's compliance with all court orders. The department of state police shall provide the information requested by a veterans treatment court under this subsection.

Sec. 1207.

(1) A veterans treatment court shall provide an individual admitted to the court with all of the following:

(a) Consistent, continual, and close monitoring and interaction with the court, treatment providers, probation, and the participant.

(b) A mentorship relationship with another veteran who can offer the participant support, guidance, and advice. It is the intent of the legislature that, where practicable, the assigned mentor should be as similar to the individual as possible in terms of age, gender, branch of service, military rank, and period of military service.

(c) Mandatory periodic and random testing for the presence of any controlled substance or alcohol in a participant's blood, urine, or breath, using, to the extent practicable, the best available, accepted, and scientifically valid methods.

(d) Periodic evaluation assessments of the participant's circumstances and progress in the program.

(e) A regimen or strategy of appropriate and graduated but immediate rewards for compliance and sanctions for noncompliance, including, but not limited to, the possibility of incarceration or confinement.

(f) Substance abuse treatment services, relapse prevention services, education, and vocational opportunities as appropriate and practicable. It is the intent of the legislature that, where practicable, these services shall be provided by the VA.

(g) Mental health treatment services as appropriate and practicable. It is the intent of the legislature that, where practicable, these services shall be provided by the VA.

(2) Any statement or other information obtained as a result of

participating in assessment, treatment, or testing while in a veterans treatment court is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, except for a statement or information that reveals criminal acts other than, or inconsistent with, personal drug use.

Sec. 1208.

(1) In order to continue to participate in and successfully complete a veterans treatment court program, an individual shall do all of the following:

- (a) Pay all court-ordered fines and costs, including minimum state costs.
- (b) Pay the veterans treatment court fee allowed under section 1206(4).
- (c) Pay all court-ordered restitution.
- (d) Pay all crime victims' rights assessments under section 5 of 1989 PA 196, MCL 780.905.
- (e) Comply with all court orders. Violations of a court order may be sanctioned within the court's discretion.
- (f) Meet with a member of a veteran service organization or a county veteran counselor to discuss available veterans benefit programs for which the individual may qualify.

(2) The veterans treatment court shall be notified if the veterans treatment court participant is accused of a new crime, and the judge shall consider whether to terminate the participant's participation in the veterans treatment court program in conformity with the memorandum of understanding under section 1201(2). If the participant is convicted of a felony for an offense that occurred after the defendant is admitted to the veterans treatment court, the judge shall terminate the participant's participation in the veterans treatment court.

(3) The court shall require that a participant pay all fines, costs, the fee, restitution, and assessments described in subsection (1)(a) to (d) and pay all, or make substantial contributions toward payment of, the costs of the treatment and the veterans treatment court program services provided to the participant, including, but not limited to, the costs of urinalysis and such testing or any counseling provided. However, if the court determines that the payment of fines, the fee, or costs of treatment under this subsection would be a substantial hardship for the individual or would interfere with the individual's substance abuse or mental health treatment, the court may waive all or part of those fines, the fee, or costs of treatment.

Sec. 1209.

(1) Upon completion or termination of the veterans treatment court program, the court shall find on the record or place a written statement in the court file as to whether the participant completed the program successfully or whether the individual's participation in the program was terminated and, if it was terminated, the reason for the termination.

(2) If a participant successfully completes probation or other court supervision and the participant's proceedings were deferred or the participant was sentenced under section 1206, the court shall comply with the agreement made with the participant upon admission into the veterans treatment court, or the agreement as it was altered after admission by the court with approval of the participant and the prosecutor for that jurisdiction as provided in subsections (3) to (8).

(3) If an individual is participating in a veterans treatment court under a statute listed in section 1203(2), the court shall proceed under the applicable section of law. There shall be not more than 1 discharge or dismissal under this subsection.

(4) Except as provided in subsection (5), the court, with the agreement of the prosecutor and in conformity with the terms and conditions of the memorandum of understanding under section 1201(2), may discharge and dismiss the proceedings against an individual who meets all of the following criteria:

- (a) The individual has participated in a veterans treatment court for the first time.
- (b) The individual has successfully completed the terms and conditions of the veterans treatment court program.
- (c) The individual is not required by law to be sentenced to a correctional facility for the crimes to which he or she has pled guilty.
- (d) The individual is not currently charged with and has not pled guilty to a traffic offense.
- (e) The individual has not previously been subject to more than 1 of any of the following:

(i) Assignment to the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(ii) The dismissal of criminal proceedings against him or her under section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, or section 350a or 430 of the Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430.

(5) The court may grant a discharge and dismissal of a domestic violence offense only if all of the following circumstances apply:

(a) The individual has not previously had proceedings dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(b) The domestic violence offense is eligible to be dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(c) The individual fulfills the terms and conditions imposed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, and the discharge and dismissal of proceedings are processed and reported under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(6) A discharge and dismissal under subsection (4) shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There shall be not more than 1 discharge and dismissal under subsection (4) for an individual. The court shall send a record of the discharge and dismissal to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the L.E.I.N. with an indication of participation by the individual in a veterans treatment court. Unless the court enters a judgment of guilt, all records of the proceedings regarding the participation of the individual in the veterans treatment court under subsection (4) are closed to public inspection and are exempt from public disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, but shall be open to the courts of this state, another state, or the United States, the department of corrections, law enforcement personnel, and prosecutors only for use in the performance of their duties or to determine whether an employee of the court, department, law enforcement agency, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, department, law enforcement agency, or prosecutor's office. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and the discharge and dismissal under this subsection.

(7) Except as provided in subsection (3), (4), or (5), if an individual has successfully completed probation or other court supervision, the court shall do the following:

(a) If the court has not already entered an adjudication of guilt or responsibility, enter an adjudication of guilt.

(b) If the court has not already sentenced the individual, proceed to sentencing.

(c) Send a record of the conviction and sentence or the finding or adjudication of responsibility and disposition to the criminal justice information center of the department of state police. The department of state police shall enter that information into the L.E.I.N. with an

indication of successful participation by the individual in a veterans treatment court.

(8) For a participant whose participation is terminated or who fails to successfully complete the veterans treatment court program, the court shall enter an adjudication of guilt if the entering of guilt was deferred or sentencing was delayed under section 1206 and shall then proceed to sentencing or disposition of the individual for the original charges to which the individual pled guilty prior to admission to the veterans treatment court. Upon sentencing or disposition of the individual, the court shall send a record of that sentence or disposition and the individual's unsuccessful participation in the veterans treatment court to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the L.E.I.N., with an indication that the individual unsuccessfully participated in a veterans treatment court.

Sec. 1210.

Each veterans treatment court shall collect and provide data on each individual applicant and participant and the entire program as required by the state court administrative office.

Sec. 1211.

(1) Where practicable, the supreme court has authority to expend state funds for the establishment and operation of veterans treatment courts. Federal funds provided to the state for the operation of veterans treatment courts shall be distributed by the department of community health or the appropriate state agency as otherwise provided by law. Nothing in this subsection prevents a local unit of government or circuit or district court from expending funds for the establishment and operation of veterans treatment courts.

(2) The state treasurer may receive money or other assets from any source for deposit into the appropriate state fund or funds for the purposes described in subsection (1).

Sec. 1212.

The state drug treatment court advisory committee created under section 1082 shall monitor the effectiveness of veterans treatment courts and the availability of funding and present annual recommendations to the legislature and supreme court regarding statutory changes regarding veterans treatment courts.





WESTERN MICHIGAN UNIVERSITY
Cooley Law School™

