

Effective 5/12/2020

**Part 3
Veterans Treatment Court Act**

78A-5-301.5 Title.

This part is known as the "Veterans Treatment Court Act."

Enacted by Chapter 62, 2020 General Session

78A-5-302 Definitions.

As used in this part:

- (1) "Defendant" means a veteran charged with a criminal offense.
- (2) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- (3)
 - (a) "Participant agreement" means the record, required by Subsection 78A-5-304(1), of the policies and procedures of a veterans treatment court and any specific terms and conditions applicable to the defendant.
 - (b) "Participant agreement" includes a modification under Section 78A-5-310.
- (4) "Record," except as otherwise provided in Subsection 78A-5-307(1)(c), means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (5) "Service member" means:
 - (a) a member of the active or reserve components of the armed forces as defined in Section 68-3-12.5; or
 - (b) a member of the National Guard of the United States.
- (6)
 - (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
 - (b) "State" includes a federally recognized Indian tribe.
- (7) "Veteran" means a former service member who qualifies for health care benefits from the Veterans Administration.
- (8) "Veterans treatment court" means a veterans treatment court program administered under this part by a court of this state.

Amended by Chapter 44, 2023 General Session

78A-5-303 Creation of a veterans treatment court.

- (1) The Judicial Council may create a veterans treatment court in any judicial district or geographic region that demonstrates:
 - (a) the need for a veterans treatment court; and
 - (b) the existence of a collaborative strategy between the veterans treatment court, prosecutors, defense attorneys, substance abuse treatment services, the Department of Corrections, and the United States Department of Veterans Affairs Veterans Justice Outreach Program to work with veteran offenders.
- (2) A veterans treatment court shall:

- (a) establish a collaborative strategy that includes monitoring and evaluation components to measure program effectiveness; and
 - (b) submit a collaborative strategy, for the purpose of coordinating the disbursement of funding, to the Administrative Office of the Courts.
- (3) A veterans treatment court shall include continuous judicial supervision using a cooperative approach with prosecutors, defense attorneys, substance abuse treatment services, the Department of Corrections, and the United States Department of Veterans Affairs Veterans Justice Outreach Program, as appropriate, to promote public safety, protect participants' due process rights, and integrate veteran treatment programs with the justice system case processing.
- (4) Screening criteria for participation in a veterans treatment court shall include:
- (a) a plea in abeyance or plea agreement for a criminal offense, or a requirement for participation in a veterans treatment court as a condition of probation;
 - (b) frequent alcohol and other drug testing, if appropriate;
 - (c) participation in veteran outreach programs, including substance abuse treatment programs where appropriate;
 - (d) sanctions for noncompliance with the requirements for participation in a veterans treatment court; and
 - (e) any additional criteria developed by a veterans treatment court.
- (5) No later than October 1 each year, the Administrative Office of the Courts shall provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report describing:
- (a) the types of policies and procedures adopted by veteran treatment courts;
 - (b) the number of veteran participants in the previous fiscal year;
 - (c) the outcomes for veteran participants in the previous fiscal year; and
 - (d) recommendations for future veterans treatment courts, including expansion and funding.

Enacted by Chapter 62, 2020 General Session

78A-5-304 Record of policies and procedures.

- (1) A veterans treatment court shall create a record of policies and procedures adopted to implement Sections 78A-5-305 through 78A-5-312.
- (2) A veterans treatment court shall seek input from prosecutors, defense attorneys, and other interested persons in developing and adopting policies and procedures to implement Sections 78A-5-305 through 78A-5-312.

Enacted by Chapter 62, 2020 General Session

78A-5-305 Policies and procedures for a veterans treatment court.

- (1) A veterans treatment court shall adopt policies and procedures to:
 - (a) integrate alcohol-treatment, drug-treatment, and mental-health services with the defendant's criminal case;
 - (b) use a nonadversarial approach in which prosecutors and defense attorneys promote public safety while protecting due-process rights of defendants;
 - (c) exercise early identification of eligible defendants;
 - (d) provide access to a continuum of alcohol-treatment, drug-treatment, mental-health treatment, and other related treatment and rehabilitation services;
 - (e) monitor defendants for abstinence from alcohol and drugs by frequent testing;

- (f) direct a coordinated strategy that responds to each defendant's needs;
 - (g) provide ongoing judicial interaction with each defendant;
 - (h) monitor and evaluate the achievement of goals;
 - (i) continue interdisciplinary education to promote effective veterans treatment court planning, implementation, and operations; and
 - (j) forge partnerships between the veterans treatment court and the United States Department of Veterans Affairs Veterans Justice Outreach Program, the Department of Veterans and Military Affairs, public agencies, and community-based organizations to generate local support and enhance the effectiveness of the veterans treatment court.
- (2) In adopting policies and procedures under this section, the court shall consider nationally recognized best practices to implement the policies and procedures described in Subsection (1) and comply with certification standards for problem-solving courts adopted by the Judicial Council.

Enacted by Chapter 62, 2020 General Session

78A-5-306 Supplemental policies and procedures of veterans treatment court.

- (1) A veterans treatment court may adopt supplemental policies and procedures to:
- (a) refer a defendant with a medical or medication need to an appropriate health care provider;
 - (b) refer a defendant to other available services, including assistance with housing, employment, nutrition, and education;
 - (c) provide a defendant access to a mentor who is a veteran;
 - (d) integrate intervention, treatment, and counseling, as part of the rehabilitative services offered to a defendant who has been a victim of domestic violence, sexual trauma, child abuse, or other trauma;
 - (e) confer with the victim or alleged victim of the domestic violence offense for which the defendant is charged that serves as the basis for the defendant's participation in the veterans treatment court;
 - (f) evaluate and assess a defendant charged with a domestic violence offense and integrate specific counseling as part of the total rehabilitative services for the defendant;
 - (g) monitor a defendant charged with a domestic violence offense to assure compliance with a domestic violence protection order, no-contact order, and prohibition of weapon possession; and
 - (h) otherwise assist the veterans treatment court.
- (2) In adopting policies and procedures under this section, the veterans treatment court shall consider nationally recognized best practices related to policies and procedures described in Subsection (1) and comply with certification standards for problem-solving courts adopted by the Judicial Council.

Enacted by Chapter 62, 2020 General Session

78A-5-307 Eligibility.

- (1) A defendant is eligible to be screened for participation in a veterans treatment court if:
- (a) the defendant is a veteran;
 - (b) the defendant has a mental-health condition, traumatic brain injury, or substance use disorder;
 - (c) the defendant agrees on the court record to voluntarily:
 - (i) participate in the veterans treatment court;

- (ii) enter into a plea in abeyance or plea agreement, or participate in a veterans treatment court as a condition of probation; and
 - (iii) adhere to a participant agreement; and
 - (d) as determined by the court, the defendant's participation in the veterans treatment court would be in the interest of justice and of benefit to the defendant and the community.
- (2) In making the determination under Subsection (1)(d), a court shall consider:
- (a) the nature and circumstances of the offense charged;
 - (b) special characteristics or circumstances of the defendant, including the defendant's criminogenic risk and need;
 - (c) the defendant's criminal history and whether the defendant previously participated in a veterans treatment court or a similar program;
 - (d) whether the defendant's needs exceed treatment resources available to the veterans treatment court;
 - (e) the impact on the community of the defendant's participation and treatment in the veterans treatment court;
 - (f) special characteristics or circumstances of the victim or alleged victim;
 - (g) provision for, and the likelihood of obtaining, restitution from the defendant over the course of participation in the veterans treatment court;
 - (h) the recommendation of the prosecutor regarding whether the defendant should participate in a veterans treatment court;
 - (i) mitigating circumstances; and
 - (j) other circumstances reasonably related to the defendant, the defendant's case, and available resources.
- (3) Section 77-37-3 applies when making the determination under Subsections (1) and (2).

Enacted by Chapter 62, 2020 General Session

78A-5-308 Requirement for admission.

For a defendant to be admitted to a veterans treatment court, the defendant and prosecutor must sign, and the court must approve, a participant agreement and a plea in abeyance, plea agreement, or probation agreement.

Enacted by Chapter 62, 2020 General Session

78A-5-309 Victim of domestic violence.

- (1) If a victim or alleged victim of a domestic violence offense that serves as the basis for the defendant's participation in a veterans treatment court can be reasonably located, the victim or alleged victim must be offered:
- (a) referrals to domestic violence service providers; and
 - (b) information on how to report an allegation of:
 - (i) an offense committed by the defendant; or
 - (ii) a violation by the defendant of the participant agreement.
- (2) Except as expressly provided for in this part, the participation of the defendant in a veterans treatment court does not alter the rights of a victim or alleged victim of domestic violence under the law of this state.

Enacted by Chapter 62, 2020 General Session

78A-5-310 Modification or termination.

- (1)
 - (a) If a prosecutor finds that a defendant has failed to comply with the defendant's participant agreement, the prosecutor may notify the veterans treatment court and the defendant of the defendant's failure to comply with the participant agreement.
 - (b) Any notice by a prosecutor under Subsection (1)(a) shall include specific allegations of the defendant's non-compliant conduct with the participant agreement.
- (2) Upon notice under Subsection (1), or upon any other notice that the defendant has failed to comply with the defendant's participant agreement, the veterans treatment court shall hold a hearing, after giving notice to all parties, on the defendant's failure to comply with the participant agreement.
- (3) At the hearing described in Subsection (2), the veterans treatment court shall:
 - (a) review the defendant's conduct under the participant agreement; and
 - (b) hear recommendations from all parties in order to determine whether the defendant's participation in the veterans treatment court should be modified or terminated.
- (4) After notice and a hearing is provided in accordance with this section, the veterans treatment court may modify or terminate a defendant's participation in a veterans treatment court.

Enacted by Chapter 62, 2020 General Session

78A-5-311 Completion of the participant agreement.

If the veterans treatment court determines that a defendant has completed the requirements of the defendant's participant agreement, the court shall adjudicate the defendant's case in accordance with the defendant's participant agreement and any applicable plea in abeyance agreement, plea agreement, probation agreement, court order, or judgment.

Enacted by Chapter 62, 2020 General Session

78A-5-312 No right to participate.

This part does not create a right to participation in a veterans treatment court.

Enacted by Chapter 62, 2020 General Session

78A-5-313 Severability.

If any provision of this part, or the application of any provision of this part to any person or circumstance, is held invalid, the remainder of this part shall be given effect without the invalid provision or application.

Enacted by Chapter 62, 2020 General Session