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VETERANS TREATMENT COURT ACT

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Lyle W. Hillyard

Cosponsors:	Walt Brooks	Christine F. Watkins
Cheryl K. Acton	Stephen G. Handy	
Carl R. Albrecht	Susan Pulsipher	
Stewart E. Barlow	Keven J. Stratton	



LONG TITLE

General Description:

This bill enacts the Veterans Treatment Court Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides the requirements for establishing a veteran treatment court;
- ▶ provides the requirements for creating policies and procedures for a veteran treatment court;
- ▶ addresses eligibility for participation in a veterans treatment court;
- ▶ addresses admission, modification, termination, and completion in a veterans court;
- ▶ addresses domestic violence offenses;
- ▶ states that there is no right to participate in a veterans treatment court; and
- ▶ provides a severability clause.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

29 **Utah Code Sections Affected:**

30 ENACTS:

- 31 [78A-5-301.5](#), Utah Code Annotated 1953
- 32 [78A-5-302](#), Utah Code Annotated 1953
- 33 [78A-5-303](#), Utah Code Annotated 1953
- 34 [78A-5-304](#), Utah Code Annotated 1953
- 35 [78A-5-305](#), Utah Code Annotated 1953
- 36 [78A-5-306](#), Utah Code Annotated 1953
- 37 [78A-5-307](#), Utah Code Annotated 1953
- 38 [78A-5-308](#), Utah Code Annotated 1953
- 39 [78A-5-309](#), Utah Code Annotated 1953
- 40 [78A-5-310](#), Utah Code Annotated 1953
- 41 [78A-5-311](#), Utah Code Annotated 1953
- 42 [78A-5-312](#), Utah Code Annotated 1953
- 43 [78A-5-313](#), Utah Code Annotated 1953

44 REPEALS:

- 45 [78A-5-301](#), as enacted by Laws of Utah 2015, Chapter 354
-

47 *Be it enacted by the Legislature of the state of Utah:*

48 Section 1. Section [78A-5-301.5](#) is enacted to read:

49 **Part 3. Veterans Treatment Court Act**

50 **[78A-5-301.5](#). Title.**

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

52 Section 2. Section [78A-5-302](#) is enacted to read:

53 **[78A-5-302](#). Definitions.**

54 As used in this part:

55 (1) "Defendant" means a veteran charged with a criminal offense.

56 (2) "Domestic violence" means the same as that term is defined in Section [77-36-1](#).

57 (3) (a) "Participant agreement" means the record, required by Subsection
58 78A-5-304(1), of the policies and procedures of a veterans treatment court and any specific
59 terms and conditions applicable to the defendant.

60 (b) "Participant agreement" includes a modification under Section 78A-5-310.

61 (4) "Record," except as otherwise provided in Subsection 78A-5-307(1)(c), means
62 information that is inscribed on a tangible medium or that is stored in an electronic or other
63 medium and is retrievable in perceivable form.

64 (5) "Servicemember" means:

65 (a) a member of the active or reserve components of the Army, Navy, Air Force,
66 Marine Corps, or Coast Guard, of the United States; or

67 (b) a member of the National Guard of the United States.

68 (6) (a) "State" means a state of the United States, the District of Columbia, Puerto
69 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
70 jurisdiction of the United States.

71 (b) "State" includes a federally recognized Indian tribe.

72 (7) "Veteran" means a former servicemember who qualifies for health care benefits
73 from the Veterans Administration.

74 (8) "Veterans treatment court" means a veterans treatment court program administered
75 under this part by a court of this state.

76 Section 3. Section **78A-5-303** is enacted to read:

77 **78A-5-303. Creation of a veterans treatment court.**

78 (1) The Judicial Council may create a veterans treatment court in any judicial district or
79 geographic region that demonstrates:

80 (a) the need for a veterans treatment court; and

81 (b) the existence of a collaborative strategy between the veterans treatment court,
82 prosecutors, defense attorneys, substance abuse treatment services, the Department of
83 Corrections, and the United States Department of Veterans Affairs Veterans Justice Outreach
84 Program to work with veteran offenders.

85 (2) A veterans treatment court shall:

86 (a) establish a collaborative strategy that includes monitoring and evaluation
87 components to measure program effectiveness; and

88 (b) submit a collaborative strategy, for the purpose of coordinating the disbursement of
89 funding, to the Administrative Office of the Courts.

90 (3) A veterans treatment court shall include continuous judicial supervision using a
91 cooperative approach with prosecutors, defense attorneys, substance abuse treatment services,
92 the Department of Corrections, and the United States Department of Veterans Affairs Veterans
93 Justice Outreach Program, as appropriate, to promote public safety, protect participants' due
94 process rights, and integrate veteran treatment programs with the justice system case
95 processing.

96 (4) Screening criteria for participation in a veterans treatment court shall include:

97 (a) a plea in abeyance or plea agreement for a criminal offense, or a requirement for
98 participation in a veterans treatment court as a condition of probation;

99 (b) frequent alcohol and other drug testing, if appropriate;

100 (c) participation in veteran outreach programs, including substance abuse treatment
101 programs where appropriate;

102 (d) sanctions for noncompliance with the requirements for participation in a veterans
103 treatment court; and

104 (e) any additional criteria developed by a veterans treatment court.

105 (5) No later than October 1 each year, the Administrative Office of the Courts shall
106 provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written
107 report describing:

108 (a) the types of policies and procedures adopted by veteran treatment courts;

109 (b) the number of veteran participants in the previous fiscal year;

110 (c) the outcomes for veteran participants in the previous fiscal year; and

111 (d) recommendations for future veterans treatment courts, including expansion and
112 funding.

113 Section 4. Section 78A-5-304 is enacted to read:

114 **78A-5-304. Record of policies and procedures.**

115 (1) A veterans treatment court shall create a record of policies and procedures adopted
116 to implement Sections 78A-5-305 through 78A-5-312.

117 (2) A veterans treatment court shall seek input from prosecutors, defense attorneys, and
118 other interested persons in developing and adopting policies and procedures to implement
119 Sections 78A-5-305 through 78A-5-312.

120 Section 5. Section 78A-5-305 is enacted to read:

121 **78A-5-305. Policies and procedures for a veterans treatment court.**

122 (1) A veterans treatment court shall adopt policies and procedures to:

123 (a) integrate alcohol-treatment, drug-treatment, and mental-health services with the
124 defendant's criminal case;

125 (b) use a nonadversarial approach in which prosecutors and defense attorneys promote
126 public safety while protecting due-process rights of defendants;

127 (c) exercise early identification of eligible defendants;

128 (d) provide access to a continuum of alcohol-treatment, drug-treatment, mental-health
129 treatment, and other related treatment and rehabilitation services;

130 (e) monitor defendants for abstinence from alcohol and drugs by frequent testing;

131 (f) direct a coordinated strategy that responds to each defendant's needs;

132 (g) provide ongoing judicial interaction with each defendant;

133 (h) monitor and evaluate the achievement of goals;

134 (i) continue interdisciplinary education to promote effective veterans treatment court
135 planning, implementation, and operations; and

136 (j) forge partnerships between the veterans treatment court and the United States

137 Department of Veterans Affairs Veterans Justice Outreach Program, the Department of

138 Veterans and Military Affairs, public agencies, and community-based organizations to generate
139 local support and enhance the effectiveness of the veterans treatment court.

140 (2) In adopting policies and procedures under this section, the court shall consider

141 nationally recognized best practices to implement the policies and procedures described in
142 Subsection (1) and comply with certification standards for problem-solving courts adopted by
143 the Judicial Council.

144 Section 6. Section **78A-5-306** is enacted to read:

145 **78A-5-306. Supplemental policies and procedures of veterans treatment court.**

146 (1) A veterans treatment court may adopt supplemental policies and procedures to:

147 (a) refer a defendant with a medical or medication need to an appropriate health care
148 provider;

149 (b) refer a defendant to other available services, including assistance with housing,
150 employment, nutrition, and education;

151 (c) provide a defendant access to a mentor who is a veteran;

152 (d) integrate intervention, treatment, and counseling, as part of the rehabilitative
153 services offered to a defendant who has been a victim of domestic violence, sexual trauma,
154 child abuse, or other trauma;

155 (e) confer with the victim or alleged victim of the domestic violence offense for which
156 the defendant is charged that serves as the basis for the defendant's participation in the veterans
157 treatment court;

158 (f) evaluate and assess a defendant charged with a domestic violence offense and
159 integrate specific counseling as part of the total rehabilitative services for the defendant;

160 (g) monitor a defendant charged with a domestic violence offense to assure compliance
161 with a domestic violence protection order, no-contact order, and prohibition of weapon
162 possession; and

163 (h) otherwise assist the veterans treatment court.

164 (2) In adopting policies and procedures under this section, the veterans treatment court
165 shall consider nationally recognized best practices related to policies and procedures described
166 in Subsection (1) and comply with certification standards for problem-solving courts adopted
167 by the Judicial Council.

168 Section 7. Section **78A-5-307** is enacted to read:

169 78A-5-307. Eligibility.

170 (1) A defendant is eligible to be screened for participation in a veterans treatment court

171 if:

172 (a) the defendant is a veteran;

173 (b) the defendant has a mental-health condition, traumatic brain injury, or substance

174 use disorder;

175 (c) the defendant agrees on the court record to voluntarily:

176 (i) participate in the veterans treatment court;

177 (ii) enter into a plea in abeyance or plea agreement, or participate in a veterans

178 treatment court as a condition of probation; and

179 (iii) adhere to a participant agreement; and

180 (d) as determined by the court, the defendant's participation in the veterans treatment

181 court would be in the interest of justice and of benefit to the defendant and the community.

182 (2) In making the determination under Subsection (1)(d), a court shall consider:

183 (a) the nature and circumstances of the offense charged;

184 (b) special characteristics or circumstances of the defendant, including the defendant's

185 criminogenic risk and need;

186 (c) the defendant's criminal history and whether the defendant previously participated

187 in a veterans treatment court or a similar program;

188 (d) whether the defendant's needs exceed treatment resources available to the veterans

189 treatment court;

190 (e) the impact on the community of the defendant's participation and treatment in the

191 veterans treatment court;

192 (f) special characteristics or circumstances of the victim or alleged victim;

193 (g) provision for, and the likelihood of obtaining, restitution from the defendant over

194 the course of participation in the veterans treatment court;

195 (h) the recommendation of the prosecutor regarding whether the defendant should

196 participate in a veterans treatment court;

197 (i) mitigating circumstances; and
198 (j) other circumstances reasonably related to the defendant, the defendant's case, and
199 available resources.

200 (3) Section 77-37-3 applies when making the determination under Subsections (1) and
201 (2).

202 Section 8. Section 78A-5-308 is enacted to read:

203 **78A-5-308. Requirement for admission.**

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

207 Section 9. Section 78A-5-309 is enacted to read:

208 **78A-5-309. Victim of domestic violence.**

209 (1) If a victim or alleged victim of a domestic violence offense that serves as the basis
210 for the defendant's participation in a veterans treatment court can be reasonably located, the
211 victim or alleged victim must be offered:

212 (a) referrals to domestic violence service providers; and

213 (b) information on how to report an allegation of:

214 (i) an offense committed by the defendant; or

215 (ii) a violation by the defendant of the participant agreement.

216 (2) Except as expressly provided for in this part, the participation of the defendant in a
217 veterans treatment court does not alter the rights of a victim or alleged victim of domestic
218 violence under the law of this state.

219 Section 10. Section 78A-5-310 is enacted to read:

220 **78A-5-310. Modification or termination.**

221 (1) (a) If a prosecutor finds that a defendant has failed to comply with the defendant's
222 participant agreement, the prosecutor may notify the veterans treatment court and the defendant
223 of the defendant's failure to comply with the participant agreement.

224 (b) Any notice by a prosecutor under Subsection (1)(a) shall include specific

225 allegations of the defendant's non-compliant conduct with the participant agreement.

226 (2) Upon notice under Subsection (1), or upon any other notice that the defendant has
227 failed to comply with the defendant's participant agreement, the veterans treatment court shall
228 hold a hearing, after giving notice to all parties, on the defendant's failure to comply with the
229 participant agreement.

230 (3) At the hearing described in Subsection (2), the veterans treatment court shall:

231 (a) review the defendant's conduct under the participant agreement; and

232 (b) hear recommendations from all parties in order to determine whether the
233 defendant's participation in the veterans treatment court should be modified or terminated.

234 (4) After notice and a hearing is provided in accordance with this section, the veterans
235 treatment court may modify or terminate a defendant's participation in a veterans treatment
236 court.

237 Section 11. Section **78A-5-311** is enacted to read:

238 **78A-5-311. Completion of the participant agreement.**

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

243 Section 12. Section **78A-5-312** is enacted to read:

244 **78A-5-312. No right to participate.**

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

246 Section 13. Section **78A-5-313** is enacted to read:

247 **78A-5-313. Severability.**

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

251 Section 14. **Repealer.**

252 This bill repeals:

253 Section **78A-5-301**, Creation of a veterans court program -- Definition of a
254 veterans court program -- Criteria for participation in a veterans court program --
255 Reporting requirements.