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VETERANS TREATMENT COURT ACT

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Lyle W. Hillyard

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

Utah Code Sections Affected:

ENACTS:

78A-5-301.5, Utah Code Annotated 1953



- 28 [78A-5-302](#), Utah Code Annotated 1953
- 29 [78A-5-303](#), Utah Code Annotated 1953
- 30 [78A-5-304](#), Utah Code Annotated 1953
- 31 [78A-5-305](#), Utah Code Annotated 1953
- 32 [78A-5-306](#), Utah Code Annotated 1953
- 33 [78A-5-307](#), Utah Code Annotated 1953
- 34 [78A-5-308](#), Utah Code Annotated 1953
- 35 [78A-5-309](#), Utah Code Annotated 1953
- 36 [78A-5-310](#), Utah Code Annotated 1953
- 37 [78A-5-311](#), Utah Code Annotated 1953
- 38 [78A-5-312](#), Utah Code Annotated 1953
- 39 [78A-5-313](#), Utah Code Annotated 1953

40 REPEALS:

41 [78A-5-301](#), as enacted by Laws of Utah 2015, Chapter 354



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

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

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

46 **[78A-5-301.5](#). Title.**

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

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

49 **[78A-5-302](#). Definitions.**

50 As used in this part:

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

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

53 (3) (a) "Participant agreement" means the record, required by Subsection
54 [78A-5-304](#)(1), of the policies and procedures of a veterans treatment court and any specific
55 terms and conditions applicable to the defendant.

56 (b) "Participant agreement" includes a modification under Section [78A-5-310](#).

57 (4) "Record," except as otherwise provided in Subsection [78A-5-307](#)(1)(c), means
58 information that is inscribed on a tangible medium or that is stored in an electronic or other

59 medium and is retrievable in perceivable form.

60 (5) "Servicemember" means:

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

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

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

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

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

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

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

73 **78A-5-303. Creation of a veterans treatment court.**

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

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

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

81 (2) A veterans treatment court shall:

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

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

86 (3) A veterans treatment court shall include continuous judicial supervision using a
87 cooperative approach with prosecutors, defense attorneys, substance abuse treatment services,
88 the Department of Corrections, and the United States Department of Veterans Affairs Veterans
89 Justice Outreach Program, as appropriate, to promote public safety, protect participants' due

90 process rights, and integrate veteran treatment programs with the justice system case
91 processing.

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

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

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

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

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

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

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

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

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

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

107 (d) recommendations for future veterans treatment courts, including expansion and
108 funding.

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

110 **78A-5-304. Record of policies and procedures.**

111 (1) A veterans treatment court shall create a record of policies and procedures adopted
112 to implement Sections [78A-5-305](#) through [78A-5-312](#).

113 (2) A veterans treatment court shall seek input from prosecutors, defense attorneys, and
114 other interested persons in developing and adopting policies and procedures to implement
115 Sections [78A-5-305](#) through [78A-5-312](#).

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

117 **78A-5-305. Policies and procedures for a veterans treatment court.**

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

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

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

123 (c) exercise early identification of eligible defendants;

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

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

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

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

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

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

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

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

134 Veterans and Military Affairs, public agencies, and community-based organizations to generate

135 local support and enhance the effectiveness of the veterans treatment court.

136 (2) In adopting policies and procedures under this section, the court shall consider
137 nationally recognized best practices to implement the policies and procedures described in
138 Subsection (1) and comply with certification standards for problem-solving courts adopted by
139 the Judicial Council.

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

141 **78A-5-306. Supplemental policies and procedures of veterans treatment court.**

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

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

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

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

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

151 (e) confer with the victim or alleged victim of the domestic violence offense for which

152 the defendant is charged that serves as the basis for the defendant's participation in the veterans
153 treatment court;

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

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

159 (h) otherwise assist the veterans treatment court.

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

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

165 **78A-5-307. Eligibility.**

166 (1) A defendant is eligible to be screened for participation in a veterans treatment court
167 if:

168 (a) the defendant is a veteran;

169 (b) the defendant has a mental-health condition, traumatic brain injury, or substance
170 use disorder;

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

172 (i) participate in the veterans treatment court;

173 (ii) enter into a plea in abeyance or plea agreement, or participate in a veterans
174 treatment court as a condition of probation; and

175 (iii) adhere to a participant agreement; and

176 (d) as determined by the court, the defendant's participation in the veterans treatment
177 court would be in the interest of justice and of benefit to the defendant and the community.

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

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

180 (b) special characteristics or circumstances of the defendant, including the defendant's
181 criminogenic risk and need;

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

183 in a veterans treatment court or a similar program;

184 (d) whether the defendant's needs exceed treatment resources available to the veterans
185 treatment court;

186 (e) the impact on the community of the defendant's participation and treatment in the
187 veterans treatment court;

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

189 (g) provision for, and the likelihood of obtaining, restitution from the defendant over
190 the course of participation in the veterans treatment court;

191 (h) the recommendation of the prosecutor regarding whether the defendant should
192 participate in a veterans treatment court;

193 (i) mitigating circumstances; and

194 (j) other circumstances reasonably related to the defendant, the defendant's case, and
195 available resources.

196 (3) Section 77-37-3 applies when making the determination under Subsections (1) and
197 (2).

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

199 **78A-5-308. Requirement for Admission.**

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

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

204 **78A-5-309. Victim of domestic violence.**

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

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

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

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

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

212 (2) Except as expressly provided for in this part, the participation of the defendant in a
213 veterans treatment court does not alter the rights of a victim or alleged victim of domestic

214 violence under the law of this state.

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

216 **78A-5-310. Modification or termination.**

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

220 (b) Any notice by a prosecutor under Subsection (1)(a) shall include specific
221 allegations of the defendant's non-compliant conduct with the participant agreement.

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

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

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

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

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

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

234 **78A-5-311. Completion of the participant agreement.**

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

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

240 **78A-5-312. No right to participate.**

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

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

243 **78A-5-313. Severability.**

244 If any provision of this part, or the application of any provision of this part to any

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

247 Section 14. **Repealer.**

248 This bill repeals:

249 Section **78A-5-301**, **Creation of a veterans court program -- Definition of a**
250 **veterans court program -- Criteria for participation in a veterans court program --**
251 **Reporting requirements.**