

1 A bill to be entitled
 2 An act relating to veterans treatment courts; creating
 3 s. 26.58, F.S.; providing a short title; providing
 4 legislative intent; providing definitions; authorizing
 5 certain courts to create and administer veterans
 6 treatment courts; providing eligibility criteria for
 7 participation in the veterans treatment court program;
 8 specifying program implementation procedures,
 9 components, and policies; requiring participant
 10 agreements and specifying requirements for such
 11 agreements; exempting certain statements and
 12 information from recordkeeping requirements; providing
 13 for liberal construction; specifying that the act does
 14 not create a right to participate; providing an
 15 effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 26.58, Florida Statutes, is created to
 20 read:

21 26.58 Florida Veterans Treatment Court Act.—

22 (1) SHORT TITLE.—This act may be cited as the "Florida
 23 Veterans Treatment Court Act."

24 (2) LEGISLATIVE INTENT.—It is the intent of the
 25 Legislature to encourage and support the judicial circuits of

26 | the state, and other such agencies, local governments,
27 | interested public or private entities, and individuals to create
28 | and maintain veterans treatment courts in each circuit. The
29 | purpose of a veterans treatment court program is to address the
30 | underlying causes of a veteran's involvement with the judicial
31 | system through the use of specialized dockets, multidisciplinary
32 | teams, and evidence-based treatment. A veterans treatment court
33 | program shall use nonadversarial approaches to resolve such
34 | issues. Veterans treatment courts depend on the leadership of
35 | judges or magistrates who are educated in the issues and science
36 | of veterans' behaviors leading to court involvement and require
37 | a rigorous team effort to detect, discern, and assist veterans
38 | in correcting the behaviors and choices that led to the
39 | veterans' court involvement. This act intends to create a
40 | detailed statewide standard for the creation, operation, and
41 | procedures for veterans treatment courts.

42 | (3) DEFINITIONS.—For purposes of this section, the term:

43 | (a) "Defendant" means a veteran or servicemember who has
44 | been charged with a criminal offense.

45 | (b) "Domestic violence" has the same meaning as in s.
46 | 741.28(2).

47 | (c) "Participant agreement" means the agreement as set
48 | forth in subsection (10) and any specific terms and conditions
49 | applicable to the defendant. The term includes any modifications
50 | made to the agreement under subsection (12).

51 (d) "Record," except as provided in subsection (14), means
52 information that is inscribed in a tangible or electronic format
53 and is retrievable in perceivable form.

54 (e) "Servicemember" means:

55 1. A member of the active or reserve components of the
56 United States Army, Navy, Air Force, Marine Corps, or Coast
57 Guard;

58 2. A member of the Florida National Guard;

59 3. A contractor for the United States Department of
60 Defense; or

61 4. A military member of a foreign allied country.

62 (f) "Sign" has the same meaning as in s. 61.703(18).

63 (g) "State" means the state of Florida and includes a
64 federally recognized Indian tribe.

65 (h) "Veteran" means a person who has served in the
66 military.

67 (i) "Veterans treatment court" means the docket of a
68 veteran or servicemember that is administered by a court as set
69 forth in this section.

70 (4) AUTHORIZATION.—

71 (a) A court with jurisdiction in criminal cases may create
72 and administer a veterans treatment court.

73 (b) A veterans treatment court may adjudicate misdemeanors
74 and felonies.

75 (c) The chief judge and state attorney of the circuit that

76 is creating and administering the veterans treatment court:

77 1. May issue administrative orders concerning the veterans
78 treatment court.

79 2. Have the exclusive authority to determine whether a
80 veteran who has been dishonorably discharged, may participate in
81 the veterans treatment court within the circuit.

82 (5) ADMISSION.—A defendant in a criminal case who meets
83 the eligibility requirements under subsection (9) may be
84 admitted to a veterans treatment court at any stage of a
85 criminal proceeding. If a defense attorney chooses to have a
86 case heard in a veterans treatment court, the defense attorney
87 must submit an application to the state attorney. The state
88 attorney and court must review each application for admission to
89 the veterans treatment court using the eligibility requirements
90 set forth in subsection (9) and determine whether the defendant
91 meets the requirements.

92 (6) RECORD OF POLICIES AND PROCEDURES.—

93 (a) Each veterans treatment court shall seek input from
94 state attorneys and other interested persons in developing and
95 adopting policies and procedures to implement subsections (7)
96 and (8).

97 (b) A veterans treatment court shall create a record of
98 the policies and procedures adopted to implement subsections (7)
99 and (8).

100 (7) KEY COMPONENTS OF A VETERANS TREATMENT COURT.—

101 (a) A veterans treatment court may adopt policies and
102 procedures to implement the following key components, including:

103 1. Integrating substance abuse and mental health treatment
104 services, and any other related treatment and rehabilitation
105 services with justice system case processing;

106 2. Using a nonadversarial approach in which the state
107 attorney and defense counsel promote public safety while
108 protecting the due process rights of the defendants;

109 3. Providing early identification of eligible defendants;

110 4. Monitoring defendants for abstinence from alcohol and
111 drugs by frequent testing;

112 5. Providing ongoing judicial interaction with each
113 defendant;

114 6. Monitoring and evaluating the achievement of each
115 defendant's program goals; and

116 7. Forging partnerships among the veterans treatment
117 courts, the United States Department of Veterans Affairs, the
118 Florida Department of Veterans' Affairs, public agencies, and
119 community-based organizations to generate local support and
120 enhance the effectiveness of the veterans treatment court.

121 (b) In adopting policies and procedures under this
122 section, the court shall consult nationally recognized best
123 practices related to the key components of veterans treatment
124 courts.

125 (8) SUPPLEMENTAL POLICIES AND PROCEDURES OF VETERANS

126 TREATMENT COURTS.—A veterans treatment court may adopt
127 supplemental policies and procedures to:

128 (a) Refer a defendant with a medical need to an
129 appropriate health care provider or refer a defendant for
130 appropriate assistance, including assistance with housing,
131 employment, nutrition, mentoring, and education.

132 (b) Address domestic violence offenses, including:

133 1. Referring a defendant who has been a victim of domestic
134 violence, sexual trauma, child abuse, or other trauma to
135 appropriate rehabilitative services;

136 2. Conferring with the victim or alleged victim of the
137 domestic violence offense that serves as the basis for the
138 defendant's participation in the veterans treatment court;

139 3. Evaluating and assessing a defendant charged with a
140 domestic violence offense and integrate specific counseling as
141 part of the total rehabilitative services for the defendant;

142 4. Monitoring a defendant charged with a domestic violence
143 offense to ensure compliance with a domestic violence protection
144 order, no contact order, and prohibition on weapon possession;
145 and

146 (c) Otherwise encourage participation in the veterans
147 treatment court.

148 (9) ELIGIBILITY.—

149 (a) A defendant may participate in a veterans treatment
150 court if:

- 151 1. The defendant has a mental health condition, traumatic
152 brain injury, or substance use disorder;
- 153 2. The defendant agrees on the court record to enter the
154 veterans treatment court voluntarily and adhere to a participant
155 agreement; and
- 156 3. The defendant's participation in the veterans treatment
157 court is in the interest of justice and of benefit to the
158 defendant and the community, as determined by:
- 159 a. The state attorney with regard to pretrial diversion;
160 or
- 161 b. The court, with regard to all other matters.
- 162 (b) In making the determination under subparagraph (a)3.,
163 the state attorney and the court shall consider:
- 164 1. The nature and circumstances of the offense charged;
165 2. Special characteristics or circumstances of the
166 defendant;
- 167 3. The defendant's criminal history and whether the
168 defendant previously participated in a veterans treatment court
169 or a similar program;
- 170 4. Whether the defendant's needs exceed treatment
171 resources available to the veterans treatment court;
- 172 5. The impact on the community of the defendant's
173 participation and treatment in the veterans treatment court;
- 174 6. Recommendations of any law enforcement agency involved
175 in investigating or arresting the defendant;

176 7. Special characteristics or circumstances of the victim
177 or alleged victim;

178 8. Any recommendation of the victim or alleged victim;

179 9. Provision for and the likelihood of obtaining
180 restitution from the defendant over the course of participation
181 in the veterans treatment court;

182 10. Mitigating circumstances; and

183 11. Other circumstances reasonably related to the
184 defendant's case.

185 (c) In making the determination under paragraphs (a) and
186 (b) in a case in which a domestic violence offense serves as the
187 basis for the defendant's participation in the veterans
188 treatment court, the state attorney and the court shall seek the
189 recommendation of the victim or alleged victim of the offense.

190 (10) PARTICIPANT AGREEMENT.—To participate in a veterans
191 treatment court, the defendant must sign, and the court must
192 approve, a participant agreement. If admission to the veterans
193 treatment court occurs before conviction, the prosecutor must
194 sign the participant agreement.

195 (11) VICTIM OF DOMESTIC VIOLENCE.—

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

200 1. Referral to services of domestic violence providers;

201 and

202 2. Information on how to report an allegation of:

203 a. An offense committed by the defendant; or

204 b. A violation by the defendant of the participant
205 agreement.

206 (b) The participation by the defendant in a veterans
207 treatment court does not alter the rights of a victim or alleged
208 victim of domestic violence under other provisions of law.

209 (12) MODIFICATION OR TERMINATION.—If a veterans treatment
210 court determines after a hearing that a defendant has not
211 complied with the participant agreement, the veterans treatment
212 court may modify or revoke the defendant's participation in the
213 program.

214 (13) COMPLETION OF THE PARTICIPANT AGREEMENT.—If a
215 veterans treatment court determines that a defendant has
216 completed the requirements of the participant agreement, the
217 court shall dispose of the charge that served as the basis of
218 participation in the veterans treatment court in accordance with
219 the participant agreement and any applicable plea agreement,
220 court order, or judgment.

221 (14) ACCESS TO RECORDS.—The following are not considered a
222 record for purposes of this section:

223 (a) A statement made or record submitted by a defendant in
224 a veterans treatment court that is subject to 42 U.S.C. s.
225 290dd-2, as amended, and 42 C.F.R. part 2, as amended, regarding

226 confidentiality.

227 (b) Any individually identifiable health information or
228 record pertaining to a defendant in a veterans treatment court
229 receiving substance abuse services that is subject to the
230 privacy regulations adopted under the Health Insurance
231 Portability and Accountability Act, 42 U.S.C. s. 1320d-6, as
232 amended, and 45 C.F.R. parts 160, 162, and 164, as amended, and
233 applicable state law.

234 (15) LIBERAL CONSTRUCTION.—The provisions of this section
235 shall be liberally construed.

236 (16) RIGHT TO PARTICIPATE.—This section does not create a
237 right of a veteran or servicemember to participate in a veterans
238 treatment court.

239 Section 2. This act shall take effect July 1, 2020.