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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	

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**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
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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.