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**VETERANS TREATMENT COURT ACT**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses provisions related to courts.

**Highlighted Provisions:**

This bill:

- ▶ enacts the Veterans Treatment Court Act, including:
  - defining terms;
  - providing for establishing veterans treatment courts;
  - requiring a record of policy and procedures for a veterans treatment court;
  - outlining the key components and supplemental policies and procedures of a veterans treatment court;
  - addressing eligibility for participation in a veterans treatment court, including requiring a participation agreement and providing for modification, termination, and completion of the agreement;
  - addressing domestic violence issues; and
  - stating that there is no right to participate; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.



28 **Utah Code Sections Affected:**

29 ENACTS:

- 30 [78A-5-302](#), Utah Code Annotated 1953
- 31 [78A-5-303](#), Utah Code Annotated 1953
- 32 [78A-5-304](#), Utah Code Annotated 1953
- 33 [78A-5-305](#), Utah Code Annotated 1953
- 34 [78A-5-306](#), Utah Code Annotated 1953
- 35 [78A-5-307](#), Utah Code Annotated 1953
- 36 [78A-5-308](#), Utah Code Annotated 1953
- 37 [78A-5-309](#), Utah Code Annotated 1953
- 38 [78A-5-310](#), Utah Code Annotated 1953
- 39 [78A-5-311](#), Utah Code Annotated 1953
- 40 [78A-5-312](#), Utah Code Annotated 1953
- 41 [78A-5-313](#), Utah Code Annotated 1953
- 42 [78A-5-314](#), Utah Code Annotated 1953

43 REPEALS AND REENACTS:

44 [78A-5-301](#), as enacted by Laws of Utah 2015, Chapter 354



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

47 Section 1. Section [78A-5-301](#) is repealed and reenacted to read:

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

49 **78A-5-301. Title.**

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

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

52 **78A-5-302. Definitions.**

53 As used in this part:

54 (1) "Defendant" means a veteran or servicemember charged with a criminal offense.

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

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

59 (b) "Participant agreement" includes a modification under Section 78A-5-310.  
60 (4) "Record," except as otherwise provided in Subsection 78A-5-307(1)(b), means  
61 information that is inscribed on a tangible medium or that is stored in an electronic or other  
62 medium and is retrievable in perceivable form.

63 (5) "Servicemember" means:  
64 (a) a member of the active or reserve components of the Army, Navy, Air Force,  
65 Marine Corps, or Coast Guard, of the United States;

66 (b) a member of the National Guard of the United States; or

67 (c) a member of the Utah National Guard.

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 and servicemembers treatment court  
75 program administered 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 court, prosecutors, defense  
82 counsel, corrections, substance abuse treatment services, and the United States Department of  
83 Veterans Affairs Veterans Justice Outreach Program to divert veteran offenders.

84 (2) The collaborative strategy in each veterans treatment court shall:

85 (a) include monitoring and evaluation components to measure program effectiveness;  
86 and

87 (b) be submitted, for the purpose of coordinating the disbursement of funding, to the  
88 Administrative Office of the Courts.

89 (3) A veterans treatment court shall include continuous judicial supervision using a

90 cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment  
91 services, and the United States Department of Veterans Affairs Veterans Justice Outreach  
92 Program as appropriate to promote public safety, protect participants' due process rights, and  
93 integrate veteran diversion treatment programs with the justice system case processing.

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

95 (a) a plea to, conviction of, or adjudication for a criminal offense;

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

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

99 (d) sanctions for noncompliance with diversion and substance abuse programs'  
100 requirements.

101 (5) The Administrative Office of the Courts shall submit in writing by October 1 of  
102 each year, an annual report on each veterans treatment court, including:

103 (a) types of programs;

104 (b) number of veteran participants;

105 (c) outcomes for veteran participants; and

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

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

109 **78A-5-304. Record of policies and procedures.**

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

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

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

116 **78A-5-305. Key components of veterans treatment court.**

117 (1) A veterans treatment court shall adopt policies and procedures to implement the  
118 following key components:

119 (a) integrating alcohol-treatment, drug-treatment, and mental-health services with  
120 justice-system case processing;

- 121 (b) using a nonadversarial approach in which prosecution and defense counsel promote  
122 public safety while protecting due-process rights of defendants;
- 123 (c) early identification of eligible defendants;
- 124 (d) providing access to a continuum of alcohol-treatment, drug-treatment,  
125 mental-health treatment, and other related treatment and rehabilitation services;
- 126 (e) monitoring defendants for abstinence from alcohol and drugs by frequent testing;
- 127 (f) directing a coordinated strategy that responds to each defendant's compliance;
- 128 (g) providing ongoing judicial interaction with each defendant;
- 129 (h) monitoring and evaluating the achievement of goals;
- 130 (i) continuing interdisciplinary education to promote effective veterans treatment court  
131 planning, implementation, and operations; and
- 132 (j) forging partnerships among the veterans treatment court, 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 consult  
137 nationally recognized best practices related to the key components and comply with  
138 certification standards for problem solving courts adopted by the Judicial Council.

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

140 **78A-5-306. Supplemental policies and procedures of veterans treatment court.**

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

- 142 (a) refer a defendant with a medical or medication need to an appropriate health care  
143 provider;
- 144 (b) refer a defendant to other available services, which may include assistance with  
145 housing, employment, nutrition, and education;
- 146 (c) provide a defendant access to a mentor who is a servicemember or veteran;
- 147 (d) integrate intervention, treatment, and counseling, as part of the rehabilitative  
148 services offered to a defendant who has been a victim of domestic violence, sexual trauma,  
149 child abuse, or other trauma;
- 150 (e) confer with the victim or alleged victim of the domestic violence offense that serves  
151 as the basis for the defendant's participation in the veterans treatment court;

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

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

157 (h) otherwise assist the veterans treatment court.

158 (2) In adopting policies and procedures under this section, the court shall consult  
159 nationally recognized best practices related to these components and comply with certification  
160 standards for problem solving courts adopted by the Judicial Council.

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

162 **78A-5-307. Eligibility.**

163 (1) A defendant is eligible to participate in a veterans treatment court if:

164 (a) the defendant has a mental-health condition, traumatic brain injury, or substance  
165 use disorder;

166 (b) the defendant agrees on the court record to enter the veterans treatment court  
167 voluntarily and adhere to a participant agreement; and

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

170 (2) In making the determination under Subsection (1)(c), the court shall consider:

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

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

174 (c) the defendant's criminal history and whether the defendant previously participated  
175 in a veterans treatment court or a similar program;

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

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

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

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

- 183 (h) mitigating circumstances; and
- 184 (i) other circumstances reasonably related to the defendant's case.
- 185 (3) Section 77-37-3 applies when making the determination under Subsections (1) and
- 186 (2) in a case in which a domestic violence offense serves as the basis for the defendant's
- 187 participation in the veterans treatment court.

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

189 **78A-5-308. Participant agreement.**

190 For a defendant to be admitted to a veterans treatment court, the defendant must sign,

191 and the court must approve, a participant agreement.

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

193 **78A-5-309. Victim of domestic violence.**

194 (1) If a victim or alleged victim of a domestic violence offense that serves as the basis

195 for the defendant's participation in a veterans treatment court can reasonably be located, the

196 victim or alleged victim must be offered:

197 (a) referrals to services of domestic violence providers; and

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

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

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

201 (2) The participation of the defendant in a veterans treatment court does not alter the

202 rights of a victim or alleged victim of domestic violence under law of this state other than this

203 part.

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

205 **78A-5-310. Modification or termination.**

206 (1) If a veterans treatment court determines after a hearing that a defendant has not

207 complied with the defendant's participant agreement, the court may modify or terminate the

208 defendant's participation in the veterans treatment court.

209 (2) Modification or termination is subject to the participant agreement.

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

211 **78A-5-311. Completion of the participant agreement.**

212 If the veterans treatment court determines that a defendant has completed the

213 requirements of the defendant's participant agreement, the court shall dispose of the charge that

214 served as the basis of participation in the veterans treatment court in accordance with the  
215 defendant's participant agreement and any applicable plea agreement, court order, or judgment.

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

217 **78A-5-312. Liberal construction.**

218 This part shall be liberally construed.

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

220 **78A-5-313. No right to participate.**

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

222 Section 14. Section **78A-5-314** is enacted to read:

223 **78A-5-314. Severability.**

224 If any provision of this part or its application to any person or circumstance is held  
225 invalid, the invalidity does not affect other provisions or applications of this part that can be  
226 given effect without the invalid provision or application, and to this end the provisions of this  
227 part are severable.

228 Section 15. **Effective date.**

229 This bill takes effect on July 1, 2019.