

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 454

By: Newhouse

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5
6 AS INTRODUCED

7 An Act relating to veterans' treatment programs;
8 providing short title; authorizing creation of
9 certain treatment program; defining terms; directing
10 development and implementation of certain program;
11 specifying funding source for certain program;
12 establishing eligibility requirements for certain
13 program; establishing duties and responsibilities of
14 certain team or coordinator; requiring certain
15 waivers; directing disposition of certain case;
16 prohibiting amendment of certain agreement;
17 construing provisions; requiring execution of certain
18 written agreement; authorizing sanctions under
19 certain circumstances; establishing procedures for
20 relapse and revocation; authorizing order for
21 participation in certain treatment; providing time
22 limitation for certain program; authorizing order for
23 payment of certain fees and costs; authorizing
24 certain orders related to driving privileges;
providing for codification; and providing an
effective date.

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19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 481 of Title 22, unless there is
22 created a duplication in numbering, reads as follows:

23 A. This section shall be known and may be cited as the
24 "Oklahoma Veterans' Treatment Act".

1 B. As used in this section:

2 1. "Oklahoma Veterans' Treatment Program" means a judicial
3 process that utilizes specially trained court personnel to expedite
4 the case and explore alternatives to incarceration for veterans or
5 service members charged with criminal offenses who are in need of
6 treatment for post-traumatic stress disorder (PTSD), traumatic brain
7 injury (TBI), mental health issues, or substance abuse treatment;

8 2. "Service Member" means any current or reserve member of the
9 United States Armed Forces including a member of the reserves or
10 National Guard; and

11 3. "Veteran" means any former member of the United States
12 military including a member of the reserves and National Guard as
13 defined by the United States Department of Veterans Affairs.

14 C. Any district or municipal court of this state may establish
15 a Veterans' Treatment Program pursuant to the provisions of this
16 section.

17 D. The jurisdiction may request assistance from the Oklahoma
18 Department of Mental Health and Substance Abuse Services, the United
19 States Department of Veterans Affairs, or other community-based
20 programs and agencies to assist in developing and implementing a
21 Veterans' Treatment Program and to obtain the necessary treatment
22 services which will assure maximum opportunity for successful
23 treatment, education and rehabilitation for offenders admitted to
24 the program. Funding for Veterans' Treatment Programs shall come

1 from the Department of Mental Health through funds budgeted for
2 alternative courts, substance abuse treatment, or mental health
3 treatment, the Department of Veterans Affairs, grants or any other
4 private or public monies.

5 E. Any offender currently charged with or convicted of any
6 offense listed in Section 13.1 of Title 21 of the Oklahoma Statutes
7 in this state or another state within the last ten (10) years is not
8 eligible for the program. An offender who has previously completed
9 or has been discharged from a Veterans' Treatment Program within the
10 last three (3) years is not eligible for the program. Eligibility
11 and entry by an offender into the Veterans' Treatment Program is
12 dependent upon approval of the district attorney. Traditional
13 prosecution shall be required where an offender is determined not
14 appropriate for the Veterans' Treatment Program. Nothing in this
15 section affects the district attorney's existing authority to amend
16 any charge.

17 F. The prosecutor shall staff each applicant with the Veterans'
18 Program team or coordinator prior to determining eligibility and
19 entry. The program team or coordinator will provide the prosecutor
20 with all assessments and clinical evaluations completed and inform
21 the prosecutor as to the defendant's military service and mental
22 health or substance abuse issues including any evidence of PTSD or
23 TBI. The team or coordinator will make a recommendation to the
24 prosecutor as to whether the applicant is appropriate for the

1 Veterans' Treatment Program. The district attorney shall make the
2 final determination as to eligibility and entry, and shall consider
3 the recommendation of the team or coordinator along with the
4 prosecutor's assessment as to whether the safety of the victim and
5 the community can be reasonably assured.

6 G. The offender must voluntarily agree to waive the right to a
7 speedy trial and waive the right to a preliminary hearing. At the
8 time an offender is admitted to the Veterans' Treatment Program, any
9 bail or undertaking on behalf of the offender shall be exonerated.

10 H. The disposition of the case shall be as specified in the
11 written plea agreement which sets forth the penalty to be imposed
12 for the offense in the event of termination or voluntary withdrawal
13 from the program, and the penalty to be imposed, if any, in the
14 event of a successful completion of the program.

15 1. When an offender successfully completes the Veterans'
16 Treatment Program, the criminal case against the offender shall be:

- 17 a. dismissed if the offense was a first felony offense;
- 18 or,
- 19 b. if the offender had a prior felony conviction, the
20 disposition shall be as specified in the written plea
21 agreement. The district attorney may dismiss the case
22 or offer a disposition including reduction to a
23 misdemeanor, a deferred sentence or a suspended
24 sentence. Any statutory preclusion or prohibition on

1 offering such dispositions on a plea agreement shall
2 be waived for those who successfully complete the
3 Veterans' Treatment Program.

4 2. The court shall not amend the written plea agreement after
5 an offender has been admitted to the Veterans' Treatment Program.

6 I. Nothing in this act shall preclude the establishment of a
7 Veterans' Treatment Program from utilizing a deferred prosecution
8 program as authorized by Sections 305.1 through 305.6 of Title 22 of
9 the Oklahoma Statutes.

10 J. Nothing in this act shall prohibit any county or municipal
11 court from establishing a Veterans' Treatment Program for
12 misdemeanor offenses.

13 K. Nothing in this act shall prohibit the transfer of the case
14 or supervision of a veteran or service member from a county without
15 a Veterans' Treatment Program to one with such a program. The
16 transfer must be approved by the district attorney and the court in
17 both jurisdictions.

18 L. The defendant shall execute a written agreement to
19 participate in the program and shall agree to all the terms and
20 conditions of the program including, but not limited to, the
21 possibility of sanctions or incarceration for failing to comply with
22 the terms of the program.

23 1. If the Veterans' Treatment Program team finds that the
24 defendant is not following the agreed rules and conditions or that

1 the defendant has engaged in further criminal conduct, the team may
2 request that the court impose reasonable sanctions including, but
3 not limited to, termination from the program;

4 2. The Veterans' Treatment Program court shall recognize
5 relapses and restarts in the program, which are considered to be
6 part of the rehabilitation and recovery process. The court shall
7 accomplish monitoring and offender accountability by ordering
8 progressively increasing sanctions or providing incentives, rather
9 than removing the offender from the program when relapse occurs,
10 except when the offender's conduct requires revocation from the
11 program. Any revocation from the Veterans' Treatment Program shall
12 require notice to the offender and other participating parties in
13 the case and a revocation hearing. At the revocation hearing, if
14 the offender is found to have violated the conditions of the plea
15 agreement or performance contract and disciplinary sanctions have
16 been insufficient to gain compliance, the offender shall be revoked
17 from the program and sentenced for the offense as provided in the
18 plea agreement.

19 M. The court may order the defendant to participate in
20 treatment as recommended. This treatment may include, but is not
21 limited to, post-traumatic stress disorder treatment, traumatic
22 brain injury treatment, mental health or substance abuse treatment.

1 N. The period of time in which an offender may participate in
2 the active treatment portion of the Veterans' Treatment Program
3 shall not exceed thirty-six (36) months.

4 O. The Veterans' Treatment Program judge may order the offender
5 to pay court costs, treatment costs, drug-testing costs, a program
6 user fee not to exceed Twenty Dollars (\$20.00) per month, and
7 necessary supervision fees, unless the offender is indigent.

8 P. Notwithstanding any other provision of law, if the driving
9 privileges of the offender have been suspended, revoked, cancelled
10 or denied by the Department of Public Safety and if the Veterans'
11 Treatment Program court determines that no other means of
12 transportation for the offender is available, the court may enter a
13 written order requiring the Department of Public Safety to stay any
14 and all such actions against the Class D driving privileges of the
15 offender; provided, the stay shall not be construed to grant driving
16 privileges to an offender who has not been issued a driver license
17 by the Department or whose Oklahoma driver license has expired, in
18 which case the offender shall be required to apply for and be found
19 eligible for a driver license, pass all examinations, if applicable,
20 and pay all statutory driver license issuance or renewal fees. The
21 offender shall provide proof of insurance to the court prior to the
22 court ordering a stay of any driver license suspension, revocation,
23 cancellation or denial. When a court of a Veterans' Treatment
24 Program enters a stay against an order by the Department of Public

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Safety suspending or revoking the driving privileges of an offender,
the time period set in the order by the Department for the
suspension or revocation shall continue to run during the stay.

SECTION 2. This act shall become effective November 1, 2019.

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