

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 545

By: Pugh

AS INTRODUCED

An Act relating to veterans' treatment programs; creating the Oklahoma Veterans' Treatment Act; providing short title; defining terms; authorizing creation of certain treatment program; directing development and implementation of certain program; specifying funding source for certain program; establishing eligibility requirements for certain program; establishing duties and responsibilities of certain team or coordinator; requiring certain waivers; directing disposition of certain case; prohibiting amendment of certain agreement; construing provisions; requiring execution of certain written agreement; authorizing sanctions under certain circumstances; establishing procedures for relapse and revocation; authorizing order for participation in certain treatment; providing time limitation for certain program; authorizing order for payment of certain fees and costs; authorizing certain orders related to driving privileges; providing for codification; and providing an effective date.

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

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

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

3 B. As used in this section:

4 1. "Service member" means any current or reserve member of the
5 United States Armed Forces including a member of the reserves or
6 National Guard;

7 2. "Veteran" means any former member of the United States
8 military including a member of the reserves and National Guard as
9 defined by the United States Department of Veterans Affairs; and

10 3. "Veterans' Treatment Program" means a judicial process that
11 utilizes specially trained court personnel to expedite a case and
12 explore alternatives to incarceration for veterans or service
13 members charged with criminal offenses who need treatment for post-
14 traumatic stress disorder (PTSD), traumatic brain injury (TBI),
15 mental health issues, or substance abuse treatment.

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

19 D. The jurisdiction may request assistance from the Department
20 of Mental Health and Substance Abuse Services, the United States
21 Department of Veterans Affairs, or other community-based programs
22 and agencies to assist in the development and implementation of a
23 Veterans' Treatment Program and to obtain the necessary treatment
24 services which will assure maximum opportunity for successful

1 treatment, education and rehabilitation for offenders admitted to
2 the program. Funding for Veterans' Treatment Programs shall come
3 from the Department of Mental Health and Substance Abuse Services
4 through funds budgeted for alternative courts, substance abuse
5 treatment, or mental health treatment, the Department of Veterans
6 Affairs, grants or any other private or public monies.

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

20 F. The prosecutor shall refer each applicant to the Veterans'
21 Treatment Program team or coordinator prior to determining
22 eligibility and entry. The program team or coordinator shall
23 provide the prosecutor with all assessments and clinical evaluations
24 and inform the prosecutor as to the applicant's military service and

1 mental health or substance abuse issues including any evidence of
2 PTSD or TBI. The team or coordinator shall make a recommendation to
3 the prosecutor as to whether the applicant is appropriate for the
4 Veterans' Treatment Program. The district attorney shall make the
5 final determination as to eligibility and entry and shall consider
6 the recommendation of the team or coordinator along with the
7 prosecutor's assessment as to whether the safety of the victim and
8 the community can be reasonably assured.

9 G. Upon entering the Veterans' Treatment Program, the offender
10 must voluntarily agree to waive the right to a speedy trial and
11 waive the right to a preliminary hearing. At the time an offender
12 is admitted to the Veterans' Treatment Program, any bail or
13 undertaking on behalf of the offender shall be exonerated.

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

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

- 21 a. dismissed if the offense was a first felony offense,
- 22 or
- 23 b. if the offender had a prior felony conviction, the
- 24 disposition shall be as specified in the written plea

1 agreement. The district attorney may dismiss the case
2 or offer a disposition including reduction to a
3 misdemeanor, a deferred sentence or a suspended
4 sentence. Any statutory preclusion or prohibition on
5 offering such dispositions on a plea agreement shall
6 be waived for those who successfully complete the
7 Veterans' Treatment Program.

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

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

14 J. Nothing in this act shall prohibit any county or municipal
15 court from establishing a Veterans' Treatment Program for
16 misdemeanor offenses.

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

22 L. The defendant shall execute a written agreement to
23 participate in the program and shall agree to all terms and
24 conditions of the program including but not limited to the

1 possibility of sanctions or incarceration for failing to comply with
2 the terms of the program.

3 1. If the Veterans' Treatment Program team finds that the
4 defendant is not following the agreed terms and conditions or that
5 the defendant has engaged in further criminal conduct, the team may
6 request that the court impose reasonable sanctions including but not
7 limited to termination from the program.

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

23 M. The court may order the defendant to participate in
24 treatment as recommended. This treatment may include but is not
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1 limited to PTSD treatment, TBI treatment, mental health or substance
2 abuse treatment.

3 N. The participation of an offender in the active treatment
4 portion of the Veterans' Treatment Program shall not exceed thirty-
5 six (36) months.

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

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

1 When a court of a Veterans' Treatment Program enters a stay against
2 an order by Service Oklahoma suspending or revoking the driving
3 privileges of an offender, the time period set in the order by
4 Service Oklahoma for the suspension or revocation shall continue to
5 run during the stay.

6 SECTION 2. This act shall become effective November 1, 2023.

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