

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

14  
 15 Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1.   Section 26.58, Florida Statutes, is created to  
 18           read:

19           26.58 Florida Veterans Treatment Court Act.-

20           (1) TITLE.-This act may be cited as the "Florida Veterans  
 21           Treatment Court Act."

22           (2) INTENT.-It is the intent of the Legislature to create  
 23           a statewide standard for the creation, operation, policies, and  
 24           procedures for veterans treatment courts.

25           (3) DEFINITIONS.-For purposes of this section, the term:

26 (a) "Defendant" means a veteran or servicemember who has  
 27 been charged with a criminal offense.

28 (b) "Domestic violence" has the same meaning as in s.  
 29 741.28.

30 (c) "Participant agreement" means the agreement as set  
 31 forth in subsection (9) and any specific terms and conditions  
 32 applicable to the defendant. The term includes any modifications  
 33 made under subsection (11).

34 (d) "Record," except as provided in subsection (13), means  
 35 information that is inscribed in a tangible or electronic format  
 36 and is retrievable in perceivable form.

37 (e) "Servicemember" means:

38 1. A member of the active or reserve components of the  
 39 United States Army, Navy, Air Force, Marine Corps, or Coast  
 40 Guard; or

41 2. A member of the Florida National Guard.

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

43 (g) "State" means a state of the United States, the  
 44 District of Columbia, Puerto Rico, the United States Virgin  
 45 Islands, or any territory or insular possession subject to the  
 46 jurisdiction of the United States. The term includes a federally  
 47 recognized Indian tribe.

48 (h) "Veteran" means a former servicemember, regardless of  
 49 the character of the servicemember's discharge.

50 (i) "Veterans treatment court" means a veterans and

51 servicemembers docket administered by a court as described in s.  
 52 394.47891 and as set forth in this section.

53 (4) AUTHORIZATION.-

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

56 (b) A veterans treatment court may adjudicate misdemeanors  
 57 and felonies.

58 (c) A defendant in a criminal case who meets the  
 59 eligibility requirements under subsection (8) may be admitted to  
 60 a veterans treatment court at any stage of a criminal  
 61 proceeding.

62 (5) RECORD OF POLICIES AND PROCEDURES.-

63 (a) Each veterans treatment court shall seek input from  
 64 prosecution and defense counsel and other interested persons in  
 65 developing and adopting policies and procedures to implement  
 66 subsections (6)-(8).

67 (b) A veterans treatment court shall create a record of  
 68 the policies and procedures adopted to implement subsections  
 69 (6)-(8).

70 (6) KEY COMPONENTS OF VETERANS TREATMENT COURT.-

71 (a) Each veterans treatment court shall adopt policies and  
 72 procedures to implement the following key components, including:

- 73 1. Integrating substance abuse and mental health treatment  
 74 services, and any other related treatment and rehabilitation  
 75 services with justice system case processing;

76           2. Using a nonadversarial approach in which prosecution  
77 and defense counsel promote public safety while protecting the  
78 due process rights of the defendants;

79           3. Providing early identification of eligible defendants;

80           4. Providing access to a continuum of substance abuse and  
81 mental health treatment services, and any other related  
82 treatment and rehabilitation services;

83           5. Monitoring defendants for abstinence from alcohol and  
84 drugs by frequent testing;

85           6. Directing coordinated strategies to increase the  
86 likelihood of each defendant's compliance with program  
87 requirements;

88           7. Providing ongoing judicial interaction with each  
89 defendant;

90           8. Monitoring and evaluating the achievement of each  
91 defendant's program goals;

92           9. Continuing interdisciplinary education to promote  
93 effective veterans treatment court planning, implementation, and  
94 operations; and

95           10. Forging partnerships among the veterans treatment  
96 courts, the United States Department of Veterans Affairs, the  
97 Florida Department of Veterans' Affairs, public agencies, and  
98 community-based organizations to generate local support and  
99 enhance the effectiveness of the veterans treatment court.

100           (b) In adopting policies and procedures under this

101 section, the court shall consult nationally recognized best  
102 practices related to the key components.

103 (7) SUPPLEMENTAL POLICIES AND PROCEDURES OF VETERANS  
104 TREATMENT COURTS.-

105 (a) A veterans treatment court may adopt supplemental  
106 policies and procedures to:

107 1. Refer a defendant with a medical or medication need to  
108 an appropriate health care provider;

109 2. Refer a defendant to other available services, which  
110 may include assistance with housing, employment, nutrition, and  
111 education;

112 3. Provide a defendant access to a mentor who is a  
113 servicemember or veteran;

114 4. Integrate intervention, treatment, and counseling as  
115 part of the rehabilitative services offered to a defendant who  
116 has been a victim of domestic violence, sexual trauma, child  
117 abuse, or other trauma;

118 5. Confer with the victim or alleged victim of the  
119 domestic violence offense that serves as the basis for the  
120 defendant's participation in the veterans treatment court;

121 6. Evaluate and assess a defendant charged with a domestic  
122 violence offense and integrate specific counseling as part of  
123 the total rehabilitative services for the defendant;

124 7. Monitor a defendant charged with a domestic violence  
125 offense to ensure compliance with a domestic violence protection

126 order, no contact order, and prohibition on weapon possession;  
127 and

128 8. Otherwise encourage participation in the veterans  
129 treatment court.

130 (b) In adopting policies and procedures under this  
131 section, the court shall consult nationally recognized best  
132 practices and the experience of existing veterans treatment  
133 courts related to the key components.

134 (8) ELIGIBILITY.-

135 (a) A defendant is eligible to participate in a veterans  
136 treatment court if:

137 1. The defendant has a mental health condition, traumatic  
138 brain injury, or substance use disorder;

139 2. The defendant agrees on the court record to enter the  
140 veterans treatment court voluntarily and adhere to a participant  
141 agreement; and

142 3. The defendant's participation in the veterans treatment  
143 court is in the interest of justice and of benefit to the  
144 defendant and the community, as determined by:

145 a. The prosecutor and the court, with regard to pretrial  
146 diversion; or

147 b. The court, with regard to all other matters.

148 (b) In making the determination under subparagraph (a)3.,  
149 the prosecutor and the court shall consider:

150 1. The nature and circumstances of the offense charged;

151        2. Special characteristics or circumstances of the  
152 defendant;

153        3. The defendant's criminal history and whether the  
154 defendant previously participated in a veterans treatment court  
155 or a similar program;

156        4. Whether the defendant's needs exceed treatment  
157 resources available to the veterans treatment court;

158        5. The impact on the community of the defendant's  
159 participation and treatment in the veterans treatment court;

160        6. Recommendations of any law enforcement agency involved  
161 in investigating or arresting the defendant;

162        7. Special characteristics or circumstances of the victim  
163 or alleged victim;

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

165        9. Provision for and the likelihood of obtaining  
166 restitution from the defendant over the course of participation  
167 in the veterans treatment court;

168        10. Mitigating circumstances; and

169        11. Other circumstances reasonably related to the  
170 defendant's case.

171        (c) In making the determination under paragraphs (10) (a)  
172 and (b) in a case in which a domestic violence offense serves as  
173 the basis for the defendant's participation in the veterans  
174 treatment court, the prosecutor and the court shall seek the  
175 recommendation of the victim or alleged victim of the offense.

176        (9) PARTICIPANT AGREEMENT.-To participate in a veterans  
 177 treatment court, the defendant must sign, and the court must  
 178 approve, a participant agreement. If admission to the veterans  
 179 treatment court occurs before conviction, the prosecutor also  
 180 must sign the participant agreement.

181        (10) VICTIM OF DOMESTIC VIOLENCE-.

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

186            1. Referral to services of domestic violence providers;

187 and

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

189            a. An offense committed by the defendant; or

190            b. A violation by the defendant of the participant  
 191 agreement.

192        (b) The participation of the defendant in a veterans  
 193 treatment court does not alter the rights of a victim or alleged  
 194 victim of domestic violence under other provisions of law.

195        (11) MODIFICATION OR TERMINATION.-If a veterans treatment  
 196 court determines after a hearing that a defendant has not  
 197 complied with the participant agreement, the veterans treatment  
 198 court may modify the participant agreement or terminate the  
 199 defendant's participation in the program.

200        (12) COMPLETION OF THE PARTICIPANT AGREEMENT.-If a



201 veterans treatment court determines that a defendant has  
202 completed the requirements of the participant agreement, the  
203 court shall dispose of the charge that served as the basis of  
204 participation in the veterans treatment court in accordance with  
205 the participant agreement and any applicable plea agreement,  
206 court order, or judgment.

207 (13) ACCESS TO RECORDS.-The following shall not be  
208 considered a record for purposes of this section:

209 (a) A statement made or record submitted by a defendant in  
210 a veterans treatment court that is subject to 42 U.S.C. s.  
211 290dd-2, as amended, and 42 C.F.R. part 2, as amended, regarding  
212 confidentiality.

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

220 (14) LIBERAL CONSTRUCTION.-The provisions of this section  
221 shall be liberally construed.

222 (15) NO RIGHT TO PARTICIPATE-This section does not create  
223 a right of a veteran or servicemember to participate in a  
224 veterans treatment court.

225 Section 2. This act shall take effect July 1, 2019.