

By Senator Lee

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1                   A bill to be entitled  
2       An act relating to veterans treatment courts; creating  
3       s. 26.58, F.S.; providing a short title; providing  
4       legislative intent; providing definitions; authorizing  
5       certain courts to create and administer veterans  
6       treatment courts; providing eligibility criteria for  
7       participation in the veterans treatment court program;  
8       specifying program implementation procedures,  
9       components, and policies; requiring participant  
10      agreements and specifying requirements for such  
11      agreements; exempting certain statements and  
12      information from recordkeeping requirements; providing  
13      for liberal construction; specifying that the act does  
14      not create a right to participate in a veterans  
15      treatment court; providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19       Section 1. Section 26.58, Florida Statutes, is created to  
20 read:

21       26.58 Florida Veterans Treatment Court Act.-

22       (1) SHORT TITLE.-This act may be cited as the "Florida  
23 Veterans Treatment Court Act."

24       (2) LEGISLATIVE INTENT.-It is the intent of the Legislature  
25 to encourage and support the judicial circuits of the state, and  
26 other such agencies, local governments, interested public or  
27 private entities, and individuals, to create and maintain  
28 veterans treatment courts in each circuit. The purpose of a  
29 veterans treatment court program is to address the underlying

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30 causes of a veteran's involvement with the judicial system  
31 through the use of specialized dockets, multidisciplinary teams,  
32 and evidence-based treatment. A veterans treatment court program  
33 shall use nonadversarial approaches to resolve such issues.  
34 Veterans treatment courts depend on the leadership of judges or  
35 magistrates who are educated in the issues and science of  
36 veterans' behaviors leading to court involvement and require a  
37 rigorous team effort to detect, discern, and assist veterans in  
38 correcting the behaviors and choices that led to the veterans'  
39 court involvement. This act intends to create a detailed  
40 statewide standard for the creation and operation of, and the  
41 procedures for, veterans treatment courts.

42 (3) DEFINITIONS.—For purposes of this section, the term:

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

45 (b) "Domestic violence" has the same meaning as in s.  
46 741.28(2).

47 (c) "Participant agreement" means the agreement as set  
48 forth in subsection (10) and any specific terms and conditions  
49 applicable to the defendant. The term includes any modifications  
50 made to the agreement under subsection (12).

51 (d) "Record," except as provided in subsection (14), means  
52 information that is inscribed in a tangible or electronic format  
53 and is retrievable in perceivable form.

54 (e) "Servicemember" means:

55 1. A member of the active or reserve components of the  
56 United States Army, Navy, Air Force, Marine Corps, or Coast  
57 Guard;

58 2. A member of the Florida National Guard;

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- 59       3. A contractor for the United States Department of  
60 Defense; or
- 61       4. A military member of a foreign allied country.
- 62       (f) "Sign" has the same meaning as in s. 61.703(18).
- 63       (g) "State" means the state of Florida and includes a  
64 federally recognized Indian tribe.
- 65       (h) "Veteran" means a person who has served in the  
66 military.
- 67       (i) "Veterans treatment court" means the docket of a  
68 veteran or servicemember that is administered by a court as set  
69 forth in this section.
- 70       (4) AUTHORIZATION.—
- 71       (a) A court with jurisdiction in criminal cases may create  
72 and administer a veterans treatment court.
- 73       (b) A veterans treatment court may adjudicate misdemeanors  
74 and felonies.
- 75       (c) The chief judge and state attorney of the circuit that  
76 is creating and administering the veterans treatment court:
- 77       1. May issue administrative orders concerning the veterans  
78 treatment court.
- 79       2. Have the exclusive authority to determine whether a  
80 veteran who has been dishonorably discharged, may participate in  
81 the veterans treatment court within the circuit.
- 82       (5) ADMISSION.—A defendant in a criminal case who meets the  
83 eligibility requirements under subsection (9) may be admitted to  
84 a veterans treatment court at any stage of a criminal  
85 proceeding. If a defense attorney chooses to have a case heard  
86 in a veterans treatment court, the defense attorney must submit  
87 an application to the state attorney. The state attorney and the

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88 court must review each application for admission to the veterans  
89 treatment court using the eligibility requirements set forth in  
90 subsection (9) and determine whether the defendant meets the  
91 requirements.

92 (6) RECORD OF POLICIES AND PROCEDURES.—

93 (a) Each veterans treatment court shall seek input from  
94 state attorneys and other interested persons in developing and  
95 adopting policies and procedures to implement subsections (7)  
96 and (8).

97 (b) A veterans treatment court shall create a record of the  
98 policies and procedures adopted to implement subsections (7) and  
99 (8).

100 (7) KEY COMPONENTS OF A VETERANS TREATMENT COURT.—

101 (a) A veterans treatment court may adopt policies and  
102 procedures to implement the following key components, including:

103 1. Integrating substance abuse and mental health treatment  
104 services, and any other related treatment and rehabilitation  
105 services, with justice system case processing;

106 2. Using a nonadversarial approach in which the state  
107 attorney and defense counsel promote public safety while  
108 protecting the due process rights of the defendants;

109 3. Providing early identification of eligible defendants;

110 4. Monitoring defendants for abstinence from alcohol and  
111 drugs by frequent testing;

112 5. Providing ongoing judicial interaction with each  
113 defendant;

114 6. Monitoring and evaluating the achievement of each  
115 defendant's program goals; and

116 7. Forging partnerships among the veterans treatment

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117 courts, the United States Department of Veterans Affairs, the  
118 Florida Department of Veterans' Affairs, public agencies, and  
119 community-based organizations to generate local support and  
120 enhance the effectiveness of the veterans treatment court.

121 (b) In adopting policies and procedures under this section,  
122 the court shall consult nationally recognized best practices  
123 related to the key components of veterans treatment courts.

124 (8) SUPPLEMENTAL POLICIES AND PROCEDURES OF VETERANS  
125 TREATMENT COURTS.—A veterans treatment court may adopt  
126 supplemental policies and procedures to:

127 (a) Refer a defendant with a medical need to an appropriate  
128 health care provider or refer a defendant for appropriate  
129 assistance, including assistance with housing, employment,  
130 nutrition, mentoring, and education.

131 (b) Address domestic violence offenses, including:

132 1. Referring a defendant who has been a victim of domestic  
133 violence, sexual trauma, child abuse, or other trauma to  
134 appropriate rehabilitative services;

135 2. Conferring with the victim or alleged victim of the  
136 domestic violence offense that serves as the basis for the  
137 defendant's participation in the veterans treatment court;

138 3. Evaluating and assessing a defendant charged with a  
139 domestic violence offense and integrating specific counseling as  
140 part of the total rehabilitative services for the defendant; and

141 4. Monitoring a defendant charged with a domestic violence  
142 offense to ensure compliance with a domestic violence protection  
143 order, a no contact order, and any prohibition on weapon  
144 possession.

145 (c) Otherwise encourage participation in the veterans

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146 treatment court.

147 (9) ELIGIBILITY.—

148 (a) A defendant may participate in a veterans treatment  
149 court if:

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

152 2. The defendant agrees on the court record to enter the  
153 veterans treatment court voluntarily and adhere to a participant  
154 agreement; and

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

158 a. The state attorney with regard to pretrial diversion; or

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

160 (b) In making the determination under subparagraph (a)3.,  
161 the state attorney and the court shall consider:

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

163 2. Special characteristics or circumstances of the  
164 defendant;

165 3. The defendant's criminal history and whether the  
166 defendant previously participated in a veterans treatment court  
167 or a similar program;

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

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

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

174 7. Special characteristics or circumstances of the victim

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175 or alleged victim;  
 176 8. Any recommendation of the victim or alleged victim;  
 177 9. Provision for and the likelihood of obtaining  
 178 restitution from the defendant over the course of participation  
 179 in the veterans treatment court;  
 180 10. Mitigating circumstances; and  
 181 11. Other circumstances reasonably related to the  
 182 defendant's case.  
 183 (c) In making the determination under paragraphs (a) and  
 184 (b) in a case in which a domestic violence offense serves as the  
 185 basis for the defendant's participation in the veterans  
 186 treatment court, the state attorney and the court shall seek the  
 187 recommendation of the victim or alleged victim of the offense.  
 188 (10) PARTICIPANT AGREEMENT.—To participate in a veterans  
 189 treatment court, the defendant must sign, and the court must  
 190 approve, a participant agreement. If admission to the veterans  
 191 treatment court occurs before conviction, the prosecutor must  
 192 sign the participant agreement.  
 193 (11) VICTIM OF DOMESTIC VIOLENCE.—  
 194 (a) If a victim or alleged victim of a domestic violence  
 195 offense that serves as the basis for the defendant's  
 196 participation in a veterans treatment court can reasonably be  
 197 located, the victim or alleged victim must be offered:  
 198 1. Referral to services of domestic violence providers; and  
 199 2. Information on how to report an allegation of:  
 200 a. An offense committed by the defendant; or  
 201 b. A violation by the defendant of the participant  
 202 agreement.  
 203 (b) The participation by the defendant in a veterans

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204 treatment court does not alter the rights of a victim or alleged  
205 victim of domestic violence under other provisions of law.

206 (12) MODIFICATION OR TERMINATION.—If a veterans treatment  
207 court determines after a hearing that a defendant has not  
208 complied with the participant agreement, the veterans treatment  
209 court may modify or revoke the defendant's participation in the  
210 program.

211 (13) COMPLETION OF THE PARTICIPANT AGREEMENT.—If a veterans  
212 treatment court determines that a defendant has completed the  
213 requirements of the participant agreement, the court must  
214 dispose of the charge that served as the basis of participation  
215 in the veterans treatment court in accordance with the  
216 participant agreement and any applicable plea agreement, court  
217 order, or judgment.

218 (14) ACCESS TO RECORDS.—The following are not considered a  
219 record for purposes of this section:

220 (a) A statement made or record submitted by a defendant in  
221 a veterans treatment court which is subject to 42 U.S.C. s.  
222 290dd-2, as amended, and 42 C.F.R. part 2, as amended, regarding  
223 confidentiality.

224 (b) Any individually identifiable health information or  
225 record pertaining to a defendant in a veterans treatment court  
226 who is receiving substance abuse services which is subject to  
227 the privacy regulations adopted under the Health Insurance  
228 Portability and Accountability Act, 42 U.S.C. s. 1320d-6, as  
229 amended, and 45 C.F.R. parts 160, 162, and 164, as amended, and  
230 applicable state law.

231 (15) LIBERAL CONSTRUCTION.—The provisions of this section  
232 shall be liberally construed.



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233       (16) RIGHT TO PARTICIPATE.-This section does not create a  
234 right of a veteran or servicemember to participate in a veterans  
235 treatment court.

236       Section 2. This act shall take effect July 1, 2020.