

Regular Session, 2014

SENATE BILL NO. 532

BY SENATORS GUILLORY, ADLEY, ALARIO, APPEL, BROOME, BROWN, BUFFINGTON, CLAITOR, CORTEZ, CROWE, DORSEY-COLOMB, ERDEY, JOHNS, LONG, MARTINY, MILLS, MORRELL, MORRISH, MURRAY, NEVERS, PEACOCK, PERRY, RISER, GARY SMITH, JOHN SMITH, TARVER, THOMPSON, WALSWORTH, WARD AND WHITE

COURTS. Provides for the creation of the Veterans Court Program. (8/1/14)

1 AN ACT

2 To enact Chapter 33-B of Title 13 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 13:5361 through 5367, to provide relative to the Veterans Court  
4 program; to provide for the creation; to provide for the goals; to provide definitions;  
5 to provide for the Veterans Court probation program; to provide for veteran indicator  
6 documents; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 33-B of Title 13 of the Louisiana Revised Statutes of 1950, to be  
9 comprised of R.S. 13:5361 through 5367 is hereby enacted to read as follows:

10 **CHAPTER 33-B. VETERANS COURT PROGRAM**

11 **§5361. Short title**

12 **This Chapter shall be known and may be cited as the "Veterans Court**  
13 **Program Treatment Act".**

14 **§5362. Purpose**

15 **The Legislature of Louisiana recognizes that there is a critical need for**  
16 **criminal justice system programs to assist veterans in order to reduce the**  
17 **incidence of alcohol and drug use, alcohol and drug addiction, and crimes**

1 committed by veterans as a result of alcohol and drug use and alcohol and drug  
2 addiction. There is also a need for programs to assist veterans with mental  
3 health issues, including mental health diagnoses and undiagnosed mental  
4 illnesses. Moreover, many veterans suffer from co-occurring disorders of  
5 substance abuse and mental illness. These problems can cause veterans to have  
6 involvement with the criminal justice system. Therefore, it is the intent of the  
7 Legislature of Louisiana to create specialized court programs in the various  
8 districts of this state called "Veterans Court programs" to assist veterans in  
9 overcoming these issues, as they impact veterans, the criminal justice system,  
10 and society at large. The goal of these programs will be to reduce recidivism  
11 among veterans and to provide those who have served this country with the  
12 assistance that they need and deserve.

13 §5363. Goals

14 The goals of the Veterans Court program divisions created under this  
15 Chapter include the following:

16 (1) To reduce drug abuse and alcoholism and dependency among  
17 offenders.

18 (2) To reduce the alcohol and drug-related workload of the courts.

19 (3) To reduce criminal recidivism.

20 (4) To diagnose undiagnosed mental health problems and to assist in the  
21 care and treatment of diagnosed mental health illnesses.

22 (5) To increase the personal, familial, and societal accountability of  
23 offenders.

24 (6) To reduce prison overcrowding.

25 (7) To provide employment and job training for veterans in partnership  
26 with the Louisiana Workforce Commission, any technical college or vocational  
27 school, or other institute of higher learning.

28 (8) To provide housing assistance for homeless veterans in partnership  
29 with state, local, and federal housing authorities and nonprofit organizations.

1           (9) To provide benefits counseling from parish service officers in  
2           partnership with the Louisiana Department of Veterans Affairs.

3           §5364. Definitions

4           For the purposes of this Chapter:

5           (1) "Veterans Court program" means a program that has all of the  
6           following essential characteristics:

7           (a) The integration of health care, education, and housing assistance, as  
8           well as employment, job training, disability compensation counseling, and other  
9           rehabilitative services in the processing of cases in the criminal justice system.

10          (b) Early identification and prompt placement of eligible participants in  
11          the program, whereby they become program participants.

12          (c) The use of nonadversarial approach involving prosecutors and  
13          defense attorneys to promote public safety and protect the due process rights  
14          of program participants.

15          (d) Access to continuum of alcohol, controlled substance, mental health,  
16          suicide assessment, intervention, treatment and management, and other related  
17          treatment and rehabilitative services.

18          (e) Careful monitoring of treatment and services provided to program  
19          participants.

20          (f) A coordinated strategy to govern program responses to participants'  
21          compliance.

22          (g) Ongoing judicial interaction with program participants.

23          (h) Monitoring and evaluation of program goals and effectiveness.

24          (i) Continuing interdisciplinary education to promote effective program  
25          planning, implementation, and operations.

26          (j) Development of partnerships with public agencies and community  
27          organizations, including but not limited to the Louisiana Department of  
28          Veterans Affairs, the Louisiana Workforce Commission, the United States  
29          Department of Veterans Affairs, and any other local, state or federal agency or

1 organization that can provide assistance to participants.

2 (2) "Veteran" means a defendant with misdemeanor or felony charges  
3 against him who is a former or current member of the United States Armed  
4 Forces or organized militia of the several states and territories, including but  
5 not limited to a member of the Army, Navy, Air Force, Marine Corps, Coast  
6 Guard, National Guard, Air National Guard, Reserves, State Guard, or a  
7 commissioned officer of the Public Health Service, Environmental Science  
8 Services Administration, or National Oceanic and Atmospheric Administration,  
9 or its predecessor the U.S. Coast and Geodetic Survey.

10 §5365. Eligibility, process

11 A. Proof of a defendant's military service must be submitted to the court  
12 in which the criminal case is pending, and may be in any form the court  
13 determines to be appropriate, including but not limited to the illustrative  
14 examples detailed in this Section. If the defendant was discharged from regular  
15 active duty after January 1, 1950, proof of military service may consist of a DD  
16 Form 214 or its functional equivalent. If the defendant served in the military  
17 before January 1, 1950, proof of military service may consist of a discharge  
18 form, including a WD AGO 53, WD AGO 55, WD AGO 53-55, NAVPERS 553,  
19 NAVMC 78PD, and the NAVCG553. If the defendant was discharged from the  
20 Army or Air Force National Guard, he may submit NGB Form 22, Report of  
21 Separation and Record of Service, or NGB Form 23, or its equivalent. If  
22 currently serving in the military, the defendant may provide an original  
23 statement of service signed by or at the direction of the adjutant, personnel  
24 officer, or commander of the defendant's unit or superior officer within the  
25 defendants chain of command which identifies the defendant and his social  
26 security number. The statement must provide at a minium the date of entry on  
27 his current service period and the duration of service.

28 B. The court must make a determination on the record in the docketed  
29 criminal case that the defendant is an eligible veteran for him to be enrolled as

1 **a program participant in a Veterans Court program.**

2 **§5366. The Veterans Court program**

3 **A. Each district court by rule may designate as a Veterans Court**  
4 **program one or more divisions of the district court to which veterans are**  
5 **assigned and may establish a probation program to be administered by the**  
6 **presiding judge or judges thereof or by an employee designated by the court.**

7 **B. Participation in probation programs shall be subject to the following**  
8 **provisions:**

9 **(1) The district attorney may propose to the court that an individual**  
10 **defendant be screened for eligibility as a participant in the Veterans Court**  
11 **program if all of the following criteria are satisfied:**

12 **(a) The individual is charged with a violation of a statute of this state**  
13 **either a felony or misdemeanor, and is determined to be a veteran as defined in**  
14 **R.S. 13:5364(2).**

15 **(b) The district attorney has reason to believe that the individual who is**  
16 **charged could benefit by the Veterans Court program.**

17 **(c) It is in the best interest of the community and in the interest of justice**  
18 **to provide the defendant with treatment as opposed to incarceration or other**  
19 **sanctions.**

20 **(2) Upon receipt of the proposal provided for in Paragraph (1) of this**  
21 **Subsection, the court shall advise the defendant that he may be eligible for**  
22 **enrollment in a court-authorized treatment program through the Veterans**  
23 **Court program.**

24 **(3)(a) If the defendant requests to undergo treatment and is accepted into**  
25 **the Veterans Court program, the defendant will be placed under the supervision**  
26 **of the Veterans Court program for the period of not less than twelve months.**

27 **(b) During the treatment the defendant may be confined in a treatment**  
28 **facility or, at the discretion of the court, the defendant may be released on a**  
29 **probationary basis for treatment or supervised aftercare in the community.**

1           (c) The court may impose any conditions reasonably related to the  
2           complete rehabilitation of the defendant.

3           (d) The defendant shall be required to participate in any court-ordered  
4           alcohol and drug testing program at his own expense, unless the court  
5           determines that he is indigent.

6           (e) If the defendant completes the Veterans Court program, and  
7           successfully completed all other requirements of his court-ordered probation,  
8           the conviction may be set aside and the prosecution dismissed in accordance  
9           with the provision of the Code of Criminal Procedure Articles 893 and 894. A  
10           defendant's successful completion of the Veterans Court program and the other  
11           requirements of probation may result in his discharge from supervision. If the  
12           defendant does not successfully complete the Veterans Court program, the  
13           judge may revoke the probation and impose sentence, or the judge may revoke  
14           the probation and order the defendant to serve the sentence previously imposed  
15           and suspended, or the judge may revoke the probation and order the defendant  
16           to be committed to the custody of the Department of Public Safety and  
17           Corrections and be required to serve a sentence of not more than six months  
18           without diminution of sentence in the intensive incarceration program pursuant  
19           to R.S. 15:574.4.4 and 574.5, then to be returned to the regular Veterans Court  
20           docket, or the court may impose any sanction provided by Code of Criminal  
21           Procedure Article 900, and extend probation and order that the defendant  
22           continue treatment for an additional period, or both.

23           (4) The defendant has the right to be represented by counsel at all stages  
24           of a criminal prosecution and in any court hearing relating to the Veterans  
25           Court program. The defendant shall be represented by counsel during the  
26           negotiations to determine eligibility to participate in the Veterans Court  
27           program and shall be represented by counsel at the time of the execution of the  
28           probation agreement, and at any hearing to revoke the defendant's probation  
29           and discharge him from the program, unless the court finds and the record

1 shows that the defendant has knowingly and intelligently waived his right to  
2 counsel.

3 (5) The defendant must agree to the Veterans Court program. If the  
4 defendant elects to undergo treatment and participate in the Veterans Court  
5 program, the court shall order an examination of the defendant by one of the  
6 court's designated licensed treatment programs. Treatment programs shall  
7 possess sufficient experience in working with criminal justice participants with  
8 alcohol or drug addictions, mental health problems, or all of these matters, and  
9 shall be certified and approved by the state of Louisiana or the U.S. Department  
10 of Veterans Affairs. The designated treatment program shall utilize  
11 standardized testing and evaluation procedures to determine whether or not the  
12 defendant is an appropriate candidate for a treatment program and shall report  
13 such findings to the court and the district attorney.

14 (6) The treatment program examiner or district attorney may request  
15 that the defendant provide the following information to the court:

16 (a) Information regarding prior criminal charges.

17 (b) Education, work experience, and training.

18 (c) Family history, including residence in the community.

19 (d) Medical and mental history, including any psychiatric or  
20 psychological treatment or counseling.

21 (e) Any other information reasonably related to the success of the  
22 treatment program.

23 (7) The designated program shall recommend to the court a preliminary  
24 length of stay and level of care for the defendant.

25 (8) In addition to the report submitted by the examiner, the judge and  
26 district attorney shall consider the following factors in determining whether the  
27 Veterans Court program would be in the interests of justice and of benefit to the  
28 defendant and the community:

29 (a) The nature of the crime charged and the circumstances surrounding

1           **the crime.**

2                   **(b) Any special characteristics or circumstances of the defendant.**

3                   **(c) Whether the defendant is a first-time offender, and, if the defendant**  
4                   **has previously participated in this or a similar program, the degree of success**  
5                   **attained.**

6                   **(d) Whether there is a probability that the defendant will cooperate with**  
7                   **and benefit from probation and treatment through the Veterans Court**  
8                   **program.**

9                   **(e) Whether the available Veterans Court program is appropriate to**  
10                   **meet the needs of the defendant.**

11                   **(f) The impact of the defendant's probation and treatment upon the**  
12                   **community.**

13                   **(g) Recommendations, if any, of the involved law enforcement agency.**

14                   **(h) Recommendations, if any, of the victim.**

15                   **(i) Provisions for and the likelihood of obtaining restitution from the**  
16                   **defendant over the course of his probation.**

17                   **(j) Any mitigating circumstances.**

18                   **(k) Any other circumstances reasonably related to the individual**  
19                   **defendant's case.**

20                   **(9) In order to be eligible for the Veterans Court program, the defendant**  
21                   **must satisfy each of the following criteria:**

22                   **(a) The defendant cannot have any prior felony convictions for any**  
23                   **offenses defined as crimes of violence in R.S. 14:2(B).**

24                   **(b) The crime before the court cannot be a crime of violence as defined**  
25                   **in R.S. 14:2(B).**

26                   **(c) Other criminal proceedings alleging commission of a crime of**  
27                   **violence as defined in R.S. 14:2(B) cannot be pending against the defendant.**

28                   **(d) The crime before the court cannot be a charge of driving under the**  
29                   **influence of alcohol or any other drug or drugs that resulted in the death of a**



1 person.

2 (10) A defendant previously convicted or adjudicated a delinquent for  
3 the offense of simple battery shall not be deemed ineligible for the Veterans  
4 Court program on the sole basis of such status.

5 (11)(a) The judge shall make the final determination of eligibility. If,  
6 based on the examiner's report and the recommendations of the district  
7 attorney and the defense counsel, the judge determines that the defendant  
8 should be enrolled in the Veterans Court program, the court shall accept the  
9 defendant's guilty plea and suspend or defer the imposition of sentence and  
10 place the defendant on probation under the terms and conditions of the  
11 Veterans Court program. The court also may impose sentence and suspend the  
12 execution thereof, placing the defendant on probation under the terms and  
13 conditions of the Veterans Court program.

14 (b) If the judge determines that the defendant is not qualified for  
15 enrollment, the judge may state for the record the reasons for that  
16 determination.

17 (c) A Veterans Court program team or staff may petition the court to  
18 reject a referral to the Veterans Court program if the Veterans Court program  
19 team or staff deems the defendant to be inappropriate for admission to the  
20 Veterans Court program. Additionally, a Veterans Court program team or staff  
21 may petition the court for immediate discharge of any individual who fails to  
22 comply with Veterans Court program rules and treatment expectations or who  
23 refuses to constructively engage in the treatment process.

24 C. (1) In offering a defendant the opportunity to request treatment, the  
25 court shall advise the defendant of the following at the time of the guilty plea:

26 (a) If the defendant is accepted into the Veterans Court program, then  
27 the defendant must waive the right to a trial. The defendant must enter a plea  
28 of guilty to the charge, with the stipulation that sentencing be deferred or that  
29 sentence be imposed, but suspended, and the defendant placed on supervised

1 probation under the usual conditions of probation and under certain special  
2 conditions of probation related to the completion of such treatment programs  
3 as are ordered by the court. During participation in the program, the defendant  
4 will be subject to nonadversarially determined sanctions. All adversarial  
5 hearings will occur during probation violation hearings.

6 (b) The terms of each probation agreement shall be decided by the judge.  
7 The defendant must agree to enter the program and sign a probation agreement  
8 stating the terms and conditions of his program. The defendant must plead  
9 guilty to the charge in order to be eligible for the Veterans Court program.

10 (2) Any probation agreement entered into pursuant to this Section shall  
11 include the following:

12 (a) The terms of the agreement, which shall provide that if the defendant  
13 fulfills the obligations of the agreement, as determined by the court, then the  
14 criminal charges may be dismissed and the prosecution set aside in accordance  
15 with the provisions of Code of Criminal Procedure Articles 893 and 894, or, if  
16 the defendant has been sentenced following the plea of guilty, then the successful  
17 completion of the Veterans Court program may result in the discharge of the  
18 defendant from continued supervision.

19 (b) A waiver by the defendant of the right to trial by jury under the laws  
20 and constitution of Louisiana and the United States.

21 (c) The defendant's full name.

22 (d) The defendant's full name at the time the complaint was filed, if  
23 different from the defendant's current name.

24 (e) The defendant's sex and date of birth.

25 (f) The crime before the court.

26 (g) The date the complaint was filed.

27 (h) The court in which the agreement was filed.

28 (i) A stipulation of the facts upon which the charge was based, as agreed  
29 to by the defendant and the district attorney.

1                    (j) A provision that the defendant may be required to pay a probation  
2 supervision fee if ordered by the court.

3                    (k) A provision, in cases where applicable, that the defendant may be  
4 required to pay restitution to the victim.

5                    (l) A provision, that once the defendant is receiving treatment as an  
6 outpatient or living in a halfway house, he will participate in appropriate job  
7 training or schooling or seek gainful employment if ordered by the court.

8                    (m) A copy of the plea agreement.

9                    (3) To the extent of his financial resources, a defendant who is placed  
10 under the supervision of the Veterans Court program may be required to pay  
11 a portion of or the entire cost of the treatment program to which he is assigned  
12 and the cost of any additional supervision that may be required, as determined  
13 by the Veterans Court program.

14                    (4) If the probationer does not have the financial resources to pay all the  
15 related costs of the probation program:

16                    (a) The court, to the extent practicable, shall arrange for the probationer  
17 to be assigned to a treatment program funded by the state or federal  
18 government.

19                    (b) The court, with the recommendation of the treatment program, may  
20 order the probationer to perform supervised work for the benefit of the  
21 community in lieu of paying all or a part of the costs relating to his treatment  
22 and supervision. The work must be performed for and under the supervising  
23 authority of a parish, municipality, or other political subdivision or agency of  
24 the state of Louisiana or a charitable organization that renders service to the  
25 community or its residents.

26                    (c) Any and all fees may be waived at the discretion of the court.

27                    D. (1) When appropriate, the imposition or execution of sentence shall  
28 be postponed while the defendant is enrolled in the treatment program. As long  
29 as the probationer follows the conditions of his agreement, he shall remain on

1 probation. At the conclusion of the period of probation, the district attorney, on  
2 advice of the person providing the probationer's treatment and the probation  
3 officer, may recommend that the court take one of the following courses of  
4 action:

5 (a) That the probationer's probation be revoked and the probationer be  
6 sentenced because the probationer has not successfully completed the treatment  
7 and has violated one or more conditions of probation; or, if already sentenced,  
8 that the probation be revoked and the probationer be remanded to the  
9 appropriate custodian for service of that sentence.

10 (b) That the period of probation be extended so that the probationer may  
11 continue the program.

12 (c) That the probationer's conviction be set aside and the prosecution  
13 dismissed because the probationer has successfully completed all the conditions  
14 of his probation and treatment agreement.

15 (2) The district attorney shall make the final determination on whether  
16 to request revocation, extension, or dismissal.

17 (3)(a) If an individual who has enrolled in a program violates any of the  
18 conditions of his probation or his treatment agreement or appears to be  
19 performing unsatisfactorily in the assigned program, or if it appears that the  
20 probationer is not benefitting from education, treatment, or rehabilitation, the  
21 treatment supervisor, probation officer, or the district attorney may move the  
22 court for a hearing to determine if the probationer should remain in the  
23 program or whether the probation should be revoked and the probationer  
24 removed from the program and sentenced or ordered to serve any sentence  
25 previously imposed. If at the hearing the moving party can show sufficient proof  
26 that the probationer has violated his probation or his treatment agreement and  
27 has not shown a willingness to submit to rehabilitation, the probationer may be  
28 removed from the program or his treatment agreement may be changed to meet  
29 the probationer's specific needs.

1           **(b) If the court finds that the probationer has violated a condition of his**  
2           **probation or a provision of his probation agreement and that the probationer**  
3           **should be removed from the probation program, then the court may revoke the**  
4           **probation and sentence the individual in accordance with his guilty plea or, if**  
5           **the individual has been sentenced and the sentence suspended, order the**  
6           **individual to begin serving the sentence.**

7           **(c) If a defendant who has been admitted to the probation program fails**  
8           **to complete the program and is thereafter sentenced to jail time for the offense,**  
9           **he shall be entitled to credit for the time served in any correctional facility in**  
10           **connection with the charge before the court.**

11           **(d) At any time and for any appropriate reason, the probationer, his**  
12           **probation officer, the district attorney, or his treatment provider may petition**  
13           **the court to reconsider, suspend, or modify its order for rehabilitation or**  
14           **treatment concerning that probationer.**

15           **(e) The burden of proof at all such hearings shall be the burden of proof**  
16           **required to revoke probation as provided by law.**

17           **E. The appropriate treatment program shall report the following**  
18           **changes or conditions to the district attorney at any periodic reporting period**  
19           **specified by the court:**

20           **(1) The probationer is changed from an inpatient to an outpatient.**

21           **(2) The probationer is transferred to another treatment center or**  
22           **program.**

23           **(3) The probationer fails to comply with program rules and treatment**  
24           **expectations.**

25           **(4) The probationer refuses to engage constructively in the treatment**  
26           **process.**

27           **(5) The probationer terminates his 3participation in the treatment**  
28           **program.**

29           **(6) The probationer is rehabilitated or has obtained the maximum**

1 benefits of rehabilitation or treatment.

2 F. Upon successful completion of the Veterans Court program and its  
3 terms and conditions, the judge, after receiving the recommendation from the  
4 district attorney, may vacate the judgment of conviction and dismiss the  
5 criminal proceedings against the probationer or may discharge the defendant  
6 from probation in accordance with the provisions of Code of Criminal  
7 Procedure Articles 893 or 894.

8 G. Discharge and dismissal under this Chapter, as provided in Code of  
9 Criminal Procedure Articles 893 and 894, shall have the same effect as  
10 acquittal, except that the conviction may be considered in order to provide the  
11 basis for subsequent prosecution of the party as a multiple offender and shall  
12 be considered as an offense for the purposes of any other law or laws relating  
13 to cumulation of offenses. Dismissal under this Chapter shall occur only once  
14 with respect to any person. Nothing herein shall be construed as a basis for the  
15 destruction of records of the arrest and prosecution of the person.

16 H. Nothing contained in this Chapter shall confer a right or an  
17 expectation of a right to treatment for a defendant or offender within the  
18 criminal justice system.

19 I. Each defendant shall contribute to the cost of any treatment received  
20 in the Veterans Court program based upon guidelines developed by the  
21 Veterans Court program. Any and all fees may be waived at the discretion of  
22 the court.

23 J. Each judicial district that establishes a Veterans Court probation  
24 program shall adopt written policies and guidelines for the implementation of  
25 a probation program in accordance with this Chapter. The policies and  
26 guidelines shall include provisions concerning the following:

27 (1) How to examine the defendant initially to determine if he is qualified  
28 for enrollment.

29 (2) How to advise the defendant of the program if the court has reason

1 to believe the defendant may suffer from alcohol or drug addiction or mental  
2 health problems or illnesses.

3 (3) What licensed treatment programs are certified by the court.

4 K. Each Veterans Court program shall develop a method of evaluation  
5 so that its effectiveness can be measured. These evaluations shall be compiled  
6 annually and transmitted to the judicial administrator of the Supreme Court  
7 of Louisiana.

8 L.(1) Except as otherwise provided for by law, the registration and other  
9 records of a treatment facility are confidential and shall not be disclosed to any  
10 person not connected with the treatment facility or the Veterans Court program  
11 and district attorney without the consent of the patient.

12 (2) The provisions of Paragraph (1) of this Subsection shall not restrict  
13 the use of patients' records for the purpose of research into the cause and  
14 treatment of alcoholism and drug addiction and mental health illnesses,  
15 provided that such information shall not be published in a way that discloses the  
16 patient's name and identifying information.

17 M. No statement, or any information procured therefrom, with respect  
18 to the specific offenses with which the defendant is charged, which is made to  
19 any probation officer or program treatment worker subsequent to the granting  
20 of probation, shall be admissible in any civil or criminal action or proceeding,  
21 except a Veterans Court program probation revocation proceeding.

22 N. A record of the fact that an individual has participated in a Veterans  
23 Court program shall be sent to the office of the attorney general and shall be  
24 made available upon request to any district attorney for the purpose of  
25 determining if an individual has previously participated in a Veterans Court  
26 program.

27 O. (1) The provisions of Code of Criminal Procedure Article 893(A) and  
28 (D) which prohibit the court from suspending or deferring the imposition of  
29 sentences for violations of the Uniform Controlled Dangerous Substances Law

1 or for violations of R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A) shall not  
2 apply to prosecutions in Veterans Court programs as authorized by this  
3 Chapter.

4 (2) The minimum mandatory sentence provided for in R.S. 14:98(D)(1)  
5 and (E)(1), which shall otherwise be imposed without benefit of probation,  
6 parole, or suspension of sentence, may be suspended if the offender is  
7 prosecuted in a Veterans Court program pursuant to the provisions of this  
8 Chapter.

9 §5367. Additional veteran indicator documents

10 In addition to the documents used to verify veteran status referred to in  
11 R.S. 13:5365(A), the following documents may be used to establish veteran  
12 status:

13 (1) DD-2 US Uniformed Services Identification Card.

14 (2) DD-214 Report of Separation.

15 (3) DD-217 Discharge Certificate.

16 (4) DD-256A Honorable Discharge Certificate.

17 (5) DD-256AF Honorable Discharge Certificate.

18 (6) DD-256CG Honorable Discharge Certificate.

19 (7) DD-256MC Honorable Discharge Certificate.

20 (8) DD-256N Honorable Discharge Certificate.

21 (9) DD-257A General Discharge Certificate.

22 (10) DD-257AF General Discharge Certificate.

23 (11) DD-257CG General Discharge Certificate.

24 (12) DD-257MC General Discharge Certificate.

25 (13) DD-257N General Discharge Certificate.

26 (14) DD-303 Certificate in Lieu of Lost or Destroyed Discharge.

27 (15) DD-303AF Certificate in Lieu of Lost or Destroyed Discharge.

28 (16) DD-303CG Certificate in Lieu of Lost or Destroyed Discharge.

29 (17) DD-303MC Certificate in Lieu of Lost or Destroyed Discharge.



- 1                   **(18) DD-303N Certificate in Lieu of Lost or Destroyed Discharge.**
- 2                   **(19) AGO-525 Discharge Certificate.**
- 3                   **(20) AGO-755 Discharge Certificate.**
- 4                   **(21) AGO-01252 Discharge Certificate.**
- 5                   **(22) AGO-01254 Discharge Certificate.**
- 6                   **(23) AGO-01502 Discharge Certificate.**
- 7                   **(24) Bureau of Investigation No. 6 Discharge Certificate.**
- 8                   **(25) Bureau of Investigation No 53 Discharge Certificate.**
- 9                   **(26) Bureau of Investigation No 118 Discharge Certificate.**
- 10                  **(27) Bureau of Investigation No 213 Discharge Certificate.**
- 11                  **(28) NAVCG-2510 Honorable Discharge, U.S. Coast Guard.**
- 12                  **(29) NAVMC-455 U.S. Marine Corps Certificate of Service, In Lieu of**
- 13                  **Lost or Destroyed Discharge Certificate.**
- 14                  **(30) NAVMC-70-PD Honorable Discharge, U.S. Marine Corps.**
- 15                  **(31) NAVMC-78-PD U.S. Marine Corps Report of Separation.**
- 16                  **(32) NMC-258 A&I Discharge Certificate.**
- 17                  **(33) NMC-2571 A&I Honorable Discharge, U.S. Marine Corps.**
- 18                  **(34) NAVPERS-563 Navy Discharge-Notice of Separation from U.S.**
- 19                  **Naval Service.**
- 20                  **(35) NAVPERS-566 Standard Statement of Service.**
- 21                  **(36) NAVPERS-660 Honorable Discharge from U.S. Navy.**
- 22                  **(37) NAVPERS-661 Certificate of Discharge, U.S. Naval Service.**
- 23                  **(38) NAVPERS-663B Discharge Certificate.**
- 24                  **(39) WD AGO-53-58 Enlisted Record and Report of Separation General**
- 25                  **Discharge.**
- 26                  **(40) WD AGO-53-90 Certificate of Service.**
- 27                  **(41) WD AGO-53-98 Military Record and Report of Separation**
- 28                  **Certificate of Service.**
- 29                  **(42) WD AGO-280 Certificate of Service, AVS.**

1                    **(43) WD AGO-525 Honorable Discharge from the United States Army.**

2                    **(44) WD AGO-755 Honorable Discharge, Women's Army Auxiliary**

3                    **Corps.**

4                    **(45) WD AGO-0729 Honorable Discharge from Army of the United**

5                    **States of America.**

6                    **(46) WD AGO-01502 Certificate in Lieu of Lost or Destroyed Discharge**

7                    **Certificate.**

8                    **(47) WD AGO-01504 Discharge Certificate.**

The original instrument was prepared by James Benton. The following digest, which does not constitute a part of the legislative instrument, was prepared by Linda Nugent.

#### DIGEST

Guillory (SB 532)

Proposed law provides that the Legislature of Louisiana recognizes that there is a critical need for criminal justice system programs to assist veterans in order to reduce the incidence of alcohol and drug use, alcohol and drug addiction, and crimes committed by veterans as a result of alcohol and drug use and alcohol and drug addiction. There is also a need for programs to assist veterans with mental health issues, including mental health diagnoses and undiagnosed mental illnesses.

Proposed law provides that the "Veterans Court Program" means a program that has the following essential characteristics:

- (1) The integration of health care, educational, and housing assistance, as well as employment, job training, disability compensation counseling, and other rehabilitative services in the processing of cases in the criminal justice system.
- (2) Early identification and prompt placement of eligible participants in the program, whereby they become program participants.
- (3) The use of nonadversarial approach involving prosecutors and defense attorneys to promote public safety and protect the due process rights of program participants.
- (4) Access to continuum of alcohol, controlled substance, mental health, suicide assessment, intervention, treatment and management, and other related treatment and rehabilitative services.
- (5) Careful monitoring of treatment and services provided to program participants.
- (6) A coordinated strategy to govern program responses to participants' compliance.
- (7) Ongoing judicial interaction with program participants.
- (8) Monitoring and evaluation of program goals and effectiveness.
- (9) Continuing interdisciplinary education to promote effective program planning, implementation, and operations.

- (10) Development of partnerships with public agencies and community organizations, including but not limited to the Louisiana Department of Veterans Affairs, the Louisiana Workforce Commission, the United States Department of Veterans Affairs, and any other state, local, or federal agency or organization that can provide assistance to participants.

Proposed law provides that proof of a defendant's military service be submitted to the court in which the criminal case is pending, and may be in any form the court determines to be appropriate.

Proposed law provides that the court must make a determination on the record in the docketed criminal case that the defendant is an eligible veteran for him to be enrolled as a program participant in a Veterans Court program.

Proposed law provides that each district court by rule may designate as a Veterans Court program one or more divisions of the district court to which veterans are assigned and may establish a probation program to be administered by the presiding judge or judges thereof or by an employee designated by the court.

Proposed law provides that upon receipt of the proposal provided for in proposed law, the court shall advise the defendant that he may be eligible for enrollment in a court-authorized treatment program through the Veterans Court program.

Proposed law provides that if the defendant requests to undergo treatment and is accepted into the Veterans Court program, the defendant will be placed under the program for a period of at least 12 months.

Proposed law provides that during the treatment the defendant may be confined in a treatment facility or, at the discretion of the court, the defendant may be released on a probationary basis for treatment or supervised aftercare in the community.

Proposed law provides that the court may impose any conditions reasonably related to the complete rehabilitation of the defendant.

Proposed law provides that the defendant shall be required to participate in any court-ordered alcohol and drug testing program at his own expense, unless indigent.

Proposed law provides that if the defendant completes the Veterans Court program, and successfully completed all other requirements of his court-ordered probation, the conviction may be set aside and the prosecution dismissed.

Proposed law provides that the defendant has the right to be represented by counsel at all stages of a criminal prosecution and in any court hearing relating to the Veterans Court program.

Proposed law provides that the defendant must agree to the Veterans Court program. If the defendant elects to undergo treatment and participate in the Veterans Court program, the court shall order an examination of the defendant by one of the court's designated licensed treatment programs.

Proposed law provides that the treatment program examiner or district attorney may request that the defendant provide the following information to the court:

- (1) Information regarding prior criminal charges.
- (2) Education, work experience, and training.
- (3) Family history, including residence in the community.

- (4) Medical and mental history, including any psychiatric or psychological treatment or counseling.
- (5) Any other information reasonably related to the success of the treatment program.

Proposed law provides that the designated program shall recommend to the court a preliminary length of stay and level of care for the defendant.

Proposed law provides that in addition to the report submitted by the examiner, the judge and district attorney shall consider the following factors in determining whether the Veterans Court program would be in the interests of justice and of benefit to the defendant and the community:

- (1) The nature of the crime charged and the circumstances surrounding the crime.
- (2) Any special characteristics or circumstances of the defendant.
- (3) Whether the defendant is a first-time offender, and, if the defendant has previously participated in this or a similar program, the degree of success attained.
- (4) Whether there is a probability that the defendant will cooperate with and benefit from probation and treatment through the Veterans Court program.
- (5) Whether the available Veterans Court program is appropriate to meet the needs of the defendant.
- (6) The impact of the defendant's probation and treatment upon the community.
- (7) Recommendations, if any, of the involved law enforcement agency.
- (8) Recommendations, if any, of the victim.
- (9) Provisions for and the likelihood of obtaining restitution from the defendant over the course of his probation.
- (10) Any mitigating circumstances.
- (11) Any other circumstances reasonably related to the individual defendant's case.

Proposed law provides that in order to be eligible for the Veterans Court program, the defendant must satisfy each of the following criteria:

- (1) The defendant cannot have any prior felony convictions for any offenses defined as crimes of violence.
- (2) The crime before the court cannot be a crime of violence.
- (3) Other criminal proceedings alleging commission of a crime of violence cannot be pending against the defendant.
- (4) The crime before the court cannot be a charge of driving under the influence of alcohol or any other drug or drugs that resulted in the death of a person.

Proposed law provides that a defendant previously convicted or adjudicated a delinquent for the offense of simple battery will not be deemed ineligible for the Veterans Court program on the sole basis of such status.

Proposed law provides that the judge will make the final determination of eligibility.

Proposed law provides that a Veterans Court program team or staff may petition the court to reject a referral to the Veterans Court program if the Veterans Court program team or staff deems the defendant to be inappropriate for admission to the Veterans Court program. Additionally, a Veterans Court program team or staff may petition the court for immediate discharge of any individual who fails to comply with Veterans probation program rules and treatment expectations or who refuses to constructively engage in the treatment process.

Proposed law provides that in offering a defendant the opportunity to request treatment, the court will advise the defendant of his legal rights and the legal consequences of his decisions.

Proposed law provides the terms for a plea agreement.

Proposed law provides that to the extent of his financial resources, a defendant who is placed under the supervision of the Veterans Court program may be required to pay a portion of or the entire cost of the treatment program to which he is assigned and the cost of any additional supervision that may be required, as determined by the Veterans Court program.

Proposed law provides that if the probationer does not have the financial resources to pay all the related costs of the probation program, the court may arrange for treatment at a program funded by the state or Federal government or allow the probationer to perform supervised work in lieu of paying or waive fee.

Proposed law provides that when appropriate, the imposition or execution of sentence will be postponed while the defendant is enrolled in the treatment program. As long as the probationer follows the conditions of his agreement, he will remain on probation. At the conclusion of the period of probation, the district attorney, on advice of the person providing the probationer's treatment and the probation officer, may recommend that the court take one of the following courses of action:

- (1) That the probationer's probation be revoked and the probationer be sentenced because the probationer has not successfully completed the treatment and has violated one or more conditions of probation; or, if already sentenced, that the probation be revoked and the probationer be remanded to the appropriate custodian for service of that sentence.
- (2) That the period of probation be extended so that the probationer may continue the program.
- (3) That the probationer's conviction be set aside and the prosecution dismissed because the probationer has successfully completed all the conditions of his probation and treatment agreement.

Proposed law provides that the district attorney will make the final determination on whether to request revocation, extension, or dismissal.

Proposed law provides that if an individual who has enrolled in a program violates any of the conditions of his probation or his treatment agreement or appears to be performing unsatisfactorily in the assigned program, or if it appears that the probationer is not benefitting from education, treatment, or rehabilitation, the treatment supervisor, probation officer, or the district attorney may move the court for a hearing to determine if the probationer should remain in the program or whether the probation should be revoked and the probationer removed from the program and sentenced or ordered to serve any sentence previously imposed.

Proposed law provides that if the court finds that the probationer has violated a condition of his probation or a provision of his probation agreement and that the probationer should be removed from the probation program, then the court may revoke the probation and sentence

the individual in accordance with his guilty plea or, if the individual has been sentenced and the sentence suspended, order the individual to begin serving the sentence.

Proposed law provides that if a defendant who has been admitted to the probation program fails to complete the program and is thereafter sentenced to jail time for the offense, he will be entitled to credit for the time served.

Proposed law provides that at any time and for any appropriate reason, the probationer, his probation officer, the district attorney, or his treatment provider may petition the court to reconsider, suspend, or modify its order for rehabilitation or treatment concerning that probationer.

Proposed law provides that the burden of proof at all such hearings will be the same burden of proof required to revoke probation.

Proposed law provides that the appropriate treatment program will report certain specified changes regarding the probationer to the district attorney.

Proposed law provides that upon successful completion of the Veterans Court program and its terms and conditions, the judge, after receiving the recommendation from the district attorney, may vacate the judgment of conviction and dismiss the criminal proceedings against the probationer or may discharge the defendant from probation.

Proposed law provides that discharge and dismissal under proposed law will have the same effect as acquittal, except that the conviction may be considered in order to provide the basis for subsequent prosecution of the party as a multiple offender and will be considered as an offense for the purposes of any other law or laws relating to cumulation of offenses.

Proposed law provides that nothing contained in proposed law will confer a right or an expectation of a right to treatment for a defendant or offender within the criminal justice system.

Proposed law provides that each defendant will contribute to the cost of any treatment received in the Veterans Court program based upon guidelines developed by the Veterans Court probation program. Any and all fees may be waived at the discretion of the court.

Proposed law provides that each judicial district that establishes a Veterans Court program will adopt written policies and guidelines for the implementation of a probation program and specifies guidelines to be included.

Proposed law provides that each Veterans Court program will develop a method of evaluation so that its effectiveness can be measured. These evaluations will be compiled annually and transmitted to the judicial administrator of the Supreme Court of Louisiana.

Proposed law provides that except as otherwise provided for by law, the registration and other records of a treatment facility are confidential and will not be disclosed to any person not connected with the treatment facility or the Veterans Court program and district attorney without the consent of the patient.

Proposed law provides that the provisions of proposed law will not restrict the use of patients' records for the purpose of research into the cause and treatment of alcoholism and drug addiction and mental health illnesses, provided that such information will not be published in a way that discloses the patient's name and identifying information.

Proposed law provides that no statement, or any information procured therefrom, with respect to the specific offenses with which the defendant is charged, which is made to any probation officer or program treatment worker subsequent to the granting of probation, will be admissible in any civil or criminal action or proceeding, except a Veterans Court program

revocation proceeding.

Proposed law provides that a record of the fact that an individual has participated in a Veterans Court program will be sent to the office of the attorney general and will be made available upon request to any district attorney for the purpose of determining if an individual has previously participated in a Veterans Court program.

Proposed law provides that the present law that prohibits the court from suspending or deferring the imposition of sentences for violations of the Uniform Controlled Dangerous Substances Law will not apply to prosecutions in Veterans Court probation programs as authorized by this Chapter.

Proposed law provides that the minimum mandatory sentence provided for in third and fourth offense DWI laws which otherwise would be imposed without benefit of probation, parole, or suspension of sentence, may be suspended if the offender is prosecuted in a Veterans Court program pursuant to proposed law.

Proposed law provides a list of additional documents that may be used to verify veteran status.

Effective August 1, 2014.

(Adds R.S. 13:5361-5367)

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill

1. Adds suicide assessment, intervention, treatment and management to the Veterans Court program services.
2. Technical amendments.