

Regular Session, 2014

SENATE BILL NO. 532

BY SENATORS GUILLORY, ADLEY, BUFFINGTON, CLAITOR, DORSEY-COLOMB,
ERDEY, MILLS AND NEVERS

COURTS. Provides for the creation of the Veteran's 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 Veteran's Court
4 program; to provide for the creation; to provide for the goals; to provide definitions;
5 to provide for the Veteran's 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. VETERAN'S COURT PROGRAM**

11 **§5361. Short title**

12 **This Chapter shall be known and may be cited as the "Veteran's 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 "Veteran's 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 Veteran's 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) "Veteran's 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 **and other related treatment and rehabilitative services.**

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

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

21 **(g) Ongoing judicial interaction with program participants.**

22 **(h) Monitoring and evaluation of program goals and effectiveness.**

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

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

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

9 **§5365. Eligibility, process**

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

27 **B. The court must make a determination on the record in the docketed**
28 **criminal case that the defendant is an eligible veteran for him to be enrolled as**
29 **a program participant in a Veteran's Court program.**

1 **§5366. The Veteran's Court program**

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

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

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

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

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

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

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

23 **(3)(a) If the defendant requests to undergo treatment and is accepted into**
24 **the Veteran's Court program, the defendant will be placed under the**
25 **supervision of the Veteran's Court program for the period of not less than**
26 **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 Veteran's 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 Veteran's 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 Veteran's 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 575, then to be returned to the regular Veteran's 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 Veteran's
25 Court program. The defendant shall be represented by counsel during the
26 negotiations to determine eligibility to participate in the Veteran's 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 Veteran's Court program. If the
4 defendant elects to undergo treatment and participate in the Veteran's 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 Veteran's Court program would be in the interests of justice and of benefit to
28 the 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 Veteran's Court**
8 **program.**
- 9 **(e) Whether the available Veteran's 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 Veteran's Court program, the**
21 **defendant 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 Veteran's
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 Veteran's 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 Veteran's 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 Veteran's 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 Veteran's Court program team or staff may petition the court to
18 reject a referral to the Veteran's Court program if the Veteran's Court
19 program team or staff deems the defendant to be inappropriate for admission
20 to the Veteran's Court program. Additionally, a Veteran's Court program team
21 or staff may petition the court for immediate discharge of any individual who
22 fails to comply with Veteran's Court program rules and treatment expectations
23 or who 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 Veteran's 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 Veteran's 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 Veteran's 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 Veteran's 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 Veteran's 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 or she shall

1 remain on probation. At the conclusion of the period of probation, the district
2 attorney, on advice of the person providing the probationer's treatment and the
3 probation officer, may recommend that the court take one of the following
4 courses of 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 or her 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 **or her probation or a provision of his or her probation agreement and that the**
3 **probationer should be removed from the probation program, then the court**
4 **may revoke the probation and sentence the individual in accordance with his or**
5 **her guilty plea or, if the individual has been sentenced and the sentence**
6 **suspended, order the 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 or her participation 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 Veteran's 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 Veteran's Court program based upon guidelines developed by the
21 Veteran's Court program. Any and all fees may be waived at the discretion of
22 the court.

23 J. Each judicial district that establishes a Veteran's 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 or she is
28 qualified 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 Veteran's 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 Veteran's Court
11 program 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 Veteran's Court program probation revocation proceeding.

22 N. A record of the fact that an individual has participated in a Veteran's
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 Veteran's 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 Veteran's 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 Veteran's 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)(1), 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 and the following digest, which constitutes no part of the legislative instrument, were prepared by James Benton.

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 "Veteran's 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, 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 Veteran's Court Program.

Proposed law provides that each district court by rule may designate as a Veteran's 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 or she may be eligible for enrollment in a court-authorized treatment program through the Veteran's Court program.

Proposed law provides that if the defendant requests to undergo treatment and is accepted into the Veteran's 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 Veteran's 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 Veteran's Court program.

Proposed law provides that the defendant must agree to the Veteran's Court program. If the defendant elects to undergo treatment and participate in the Veteran's 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 Veteran's 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 Veteran's Court program.
- (5) Whether the available Veteran's 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 Veteran's 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 Veteran's 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 Veteran's Court program team or staff may petition the court to reject a referral to the Veteran's Court program if the Veteran's Court program team or staff deems the defendant to be inappropriate for admission to the Veteran's Court program. Additionally, a Veteran's Court program team or staff may petition the court for immediate discharge of any individual who fails to comply with Veteran's 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 Veteran's 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 Veteran's 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 or she 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 or her 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 or her probation or a provision of his or her 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 or her 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 Veteran's 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 Veteran's Court program based upon guidelines developed by the Veteran's 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 Veteran's 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 Veteran's 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 Veteran's 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 Veteran's Court program revocation proceeding.

Proposed law provides that a record of the fact that an individual has participated in a Veteran's 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 Veteran's 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 Veteran's 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 Veteran's 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)