

D R A F T

FOR APPROVAL

**MODEL VETERANS TREATMENT COURT ACT
AND
MODEL VETERANS TREATMENT COURT RULES**

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

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**MODEL VETERANS TREATMENT COURT ACT
AND
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NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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June 9, 2017

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AND MODEL VETERANS TREATMENT COURT RULES**

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1 **Legislative Note:** *The provisions for regulation of Model Veterans Treatment are presented in*
2 *two formats for enactment-by legislation or court rules. The substantive provisions of each*
3 *format are identical with the exception of several standard form clauses typically found in*
4 *legislation. Each state considering adopting the Model Veterans Treatment Court Act or the*
5 *Model Veterans Treatment Court Rules should review its practices and precedent to first*
6 *determine whether the substantive provisions are best adopted by court rule or statute. The*
7 *decision may vary from state to state depending on the allocation of authority between the*
8 *legislature and the judiciary for regulation of contracts, alternative dispute resolution, and the*
9 *legal profession. States may also decide to enact part of the substantive provisions by legislation*
10 *or by court rule. Drafting agencies may need to renumber sections and cross references*
11 *depending on their decision concerning the appropriate method of enactment.*

12
13 **MODEL VETERANS TREATMENT COURT ACT**

14 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Model Veterans

15 Treatment Court Act.

16 **Comment**

17 The Model Veterans Treatment Court Act was drafted in acknowledgment of the fact that
18 veterans and servicemembers have been recognized as having a shared culture that can aid in the
19 rehabilitation process normally found in a traditional drug or mental health treatment court.
20 Should state legislatures desire to include others who have served their communities in this
21 docket, for example fire fighters and law enforcement personnel, they should feel free to expand
22 the scope of this act to encompass those groups as desired.

23
24 Some jurisdictions choose to refer to these courts as veterans courts, while others refer to
25 the court as a veterans treatment court. In recognition of the fact that the overarching concern of
26 these courts is treatment for veteran defendants suffering from mental health conditions,
27 substance use disorders, and traumatic brain injuries, the title for this act was drafted
28 accordingly.

29
30 **SECTION 2. DEFINITIONS.** In this [act]:

31 (1) “Defendant” means a veteran or servicemember charged with a criminal offense.

32 (2) “Domestic violence” means conduct as defined in [cite appropriate state statute
33 defining domestic violence].

34 (3) “Participant Agreement” means the record required by Section 4(a), which contains
35 the policies and procedures of a veterans treatment court and any specific terms and conditions
36 applicable to the defendant. The term includes a modification under Section 10.

1 (4) "Record," means information that is inscribed on a tangible medium or that is stored
2 in an electronic or other medium and is retrievable in perceivable form.

3 (5) "Servicemember" means:

4 (A) a current member of the active or reserve components of the United States
5 Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States; or

6 (B) a current member of the National Guard [or state defense forces].

7 (6) "Sign" means, with present intent to authenticate or adopt a record:

8 (A) to execute or adopt a tangible symbol; or

9 (B) to attach to or logically associate with the record an electronic
10 symbol, sound, or process.

11 (7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
12 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
13 the United States. The term includes a federally recognized Indian tribe.

14 (8) "Veteran" means a former servicemember, regardless of the character of the
15 servicemember's discharge.

16 (9) "Veterans treatment court" means a veterans and servicemembers [docket] [calendar]
17 administered under this [act] by a court in this state.

18 **Legislative Note:** *Defense forces referred to in paragraph (5)(B) should be changed to the name*
19 *is used to refer to the enacting state's defense forces.*

20
21 **Comment**

22
23 The definition of "defendant" includes both veterans and those servicemembers
24 serving on active duty. While it may be difficult for active duty servicemembers to meet the
25 strict requirements of a veterans treatment court while fulfilling their active duty service
26 obligations, writing this definition broadly gives courts and defendants latitude to determine
27 the veterans treatment court's helpfulness in each individual case. This broad definition may
28 also allow the court to partner with Department of Defense (DoD) medical and counseling
29 providers when allowing the participation of an active duty servicemember in the veterans
30 treatment court.

1 The definition of “participant agreement” was drafted with the understanding that
2 often defendants may be admitted to a veterans treatment court based upon plea agreements,
3 court orders, or judgments regarding the disposition of defendant’s charges upon successful
4 completion of veterans treatment court. Pursuant to a specific veterans treatment court
5 policies and procedures, these agreements, court orders, or judgments may be included in the
6 participant agreement itself, or may be ancillary to the participant agreement. Because the
7 method of disposing of charges will vary, “participant agreement” is defined in a manner that
8 does not constrain individual jurisdictions regarding disposition.
9

10 The definitions of “servicemember” and “veteran” broadly include any person who
11 served in the United States Armed Forces in any of the widely recognized branches of the
12 military or state defense forces. State defense forces are called upon periodically for many
13 different missions within the state including disaster relief, riot control, and the like. These
14 definitions recognize the service of state defense force members, who may encounter the
15 same types of situations as federal military servicemembers and would likely benefit from the
16 veteran mentorship programs typically implemented in veterans treatment courts.

17 The definition of “veterans treatment court” specifically allows courts to adopt a
18 veterans treatment court as a separate docket, calendar, or similar term used in local practice,
19 of an existing court and avoids requiring jurisdictions to set up separate courts for this
20 purpose.
21

22 There is specifically no mention made here of the “character of discharge” a veteran is
23 required to have to be eligible for participation in the veterans treatment court. When a
24 servicemember is discharged from the military, the DoD “characterizes” that member’s service
25 in order to describe how that member served his/her nation. DoD currently uses five main types
26 of characterizations of discharge: Honorable, General (under Honorable conditions), Other Than
27 Honorable, Bad Conduct Discharge, and Dishonorable Discharge. There are other types of
28 discharges to include discharges that cannot be characterized because the member has served
29 such a short time.
30

31 Characters of Discharge become important in regards to treatment because the
32 Department of Veterans Affairs (VA) has specific character of discharge requirements for
33 determining which veterans will get access to medical care at the VA Medical Centers and
34 benefits. The VA requires that a veteran have an “other than dishonorable” discharge to qualify
35 for benefits and health care at the VA. The VA has interpreted this phrase to mean that veterans
36 with Honorable and General discharges are automatically qualified for most benefits including
37 health care and disability benefits. Veterans with an Other Than Honorable discharge are
38 reviewed on a case-by-case basis to determine if their service was “dishonorable.” Veterans with
39 Bad Conduct and Dishonorable Discharges are automatically disqualified. The Other Than
40 Honorable, Bad Conduct, and Dishonorable Discharges are often referred to as “bad paper
41 discharges.”
42

43 It is well documented in the media, congressional reports and investigations, and current
44 lawsuits that the DoD has separated servicemembers from the military for misconduct that
45 resulted from undiagnosed or untreated mental health conditions or brain injury disabilities
46 caused during a veteran’s service. These separations often result in bad paper discharges that

1 prevent veterans from receiving health care benefits from the VA, often leaving veterans in these
2 situations completely untreated for disabilities related to their service. Many of the veterans who
3 suffer from bad paper discharges commit crimes that, but for the character of their discharge,
4 would allow them entry into a veterans treatment court. In December 2016, Congress recognized
5 the conundrum of bad paper discharges in the passage of Public Law 114-328, Section 535
6 amending Section 1553(d) of title 10, United States Code. This provision now requires DoD to
7 liberally reconsider bad paper discharges where post-traumatic stress or traumatic brain injury
8 may have led to the misconduct resulting in the discharge in certain instances. This recognition
9 that many bad paper discharges may have been affected by mental health conditions or brain
10 injuries was supported by many of America's Veterans Service Organizations. In addition, the
11 American Bar Association resolved in 2017 that barriers preventing veterans' access to treatment
12 and other services should be removed if at all possible.
13

14 Some veterans treatment courts have chosen to limit veteran participation in the veterans
15 treatment court to those with good characters of service because the VA will participate in
16 providing treatment for the veterans' disabilities in those cases. While finding resources that
17 may be provided to the defendant at no cost to the court or defendant is certainly a consideration,
18 it seems prudent to allow courts and judges the latitude to determine whether or not a defendant's
19 situation and the court's available treatment resources would make participation in veterans
20 treatment court successful. A blanket prohibition on veterans with bad paper discharges seems
21 unwarranted and unnecessarily binds the court in what may otherwise be a compelling case for
22 entry into the veterans treatment court.
23

24 There is no requirement in these definitions that a veteran have combat service in
25 order to be eligible to participate in a veterans treatment court. Allowing all veterans to
26 participate if the court determines that participation is helpful recognizes that some
27 disabilities are not incurred in combat, but may come from other events. For instance,
28 military sexual trauma, which refers to instances of sexual assault or repeated sexual
29 harassment perpetrated upon a servicemember, is now widely recognized and any residual
30 mental health conditions or substance use disorders related to this event could be permitted
31 entry into the veterans treatment court.
32

33 **SECTION 3. AUTHORIZATION.**

34 (a) A court that has jurisdiction in criminal cases may administer a veterans treatment
35 court.

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

37 (c) An eligible defendant eligible under this [act] may be admitted to the veterans
38 treatment court at any stage in a criminal proceeding.

1 **Comment**

2 This act allows for a wide variety of approaches through which a veterans treatment court
3 may be implemented by local and court rules. This act also allows states to determine the court in
4 which implementation may be best accomplished. The act allows for the inclusion of felony and
5 misdemeanor offenses in order to give the court the broadest latitude to determine the
6 appropriateness of a defendant’s participation in veterans treatment court based upon the other
7 considerations in Section 8 of this act.
8

9 **SECTION 4. RECORD OF POLICIES AND PROCEDURES.**

10 (a) A veterans treatment court shall create a record of policies and procedures adopted to
11 implement Sections 5 through 12.

12 (b) A veterans treatment court shall seek input from prosecutors, defense counsel, and
13 other interested persons in developing and adopting its policies and procedures.

14 **Comment**

15 Section 4(b) was drafted in order to reflect what has become a best practices standard for
16 treatment courts when creating policies and procedures. The National Association of Drug Court
17 Professionals Adult Drug Court Best Practice Standards Volume II (2015) suggests that in order
18 to develop fair and effective policies and procedures for the program, interested parties should
19 participate in the creation of a local court’s policies and procedures. Interested parties comprise
20 representatives from all partner agencies involved in the implementation of treatment courts
21 including, but not limited to, a judge or judicial officer, program coordinator, prosecutor, defense
22 counsel representative, treatment representative, community supervision officer, and law
23 enforcement officer.
24

25 **SECTION 5. KEY COMPONENTS OF VETERANS TREATMENT COURT. A**

26 veterans treatment court shall adopt policies and procedures to implement the following key
27 components:

28 (1) integrating alcohol-treatment, drug-treatment, and mental-health services with justice
29 system case processing;

30 (2) using a nonadversarial approach in which prosecution and defense counsel promote
31 public safety while protecting due process rights of defendants;

32 (3) identifying eligible defendants early;

- 1 (4) providing access to a continuum of alcohol-treatment, drug-treatment, mental-health
2 treatment, and other related treatment and rehabilitation services;
- 3 (5) monitoring abstinence from alcohol and drugs by frequent testing;
- 4 (6) directing a coordinated strategy that responds to each defendant's compliance;
- 5 (7) providing ongoing judicial interaction with each defendant;
- 6 (8) monitoring and evaluating the achievement of goals;
- 7 (9) continuing interdisciplinary education to promote effective veterans treatment court
8 planning, implementation, and operations; and
- 9 (10) forging partnerships among the veterans treatment court, the United States
10 Department of Veterans Affairs, the [appropriate state or local agency], public agencies, and
11 community-based organizations to generate local support and enhance the effectiveness of the
12 veterans treatment court.

13 **Comment**

14 In light of the understanding that courts maintain autonomy in the structure of a defendant's
15 participation in order to make the veterans treatment court most effective for all involved, care has
16 been taken to refrain from dictating to courts precisely what a veterans treatment court must
17 include. However, there are some characteristics of veterans treatment court that are widely agreed
18 upon.

19 Section 5 incorporates the National Association of Drug Court Professionals' Ten Key
20 Components of Drug Courts. These evidence-based, scientifically validated principles are industry
21 best practice standards and they should not be substantively altered.

22 In 1997, the National Association of Drug Court Professionals published *Defining Drug*
23 *Courts: The Ten Key Components*. These ten key components quickly became the framework for
24 drug courts and other problem-solving courts. Over the past two decades, research now confirms
25 that drug courts are more likely to accomplish their goals by faithfully adhering to the Ten Key
26 Components. See SHANNON M. CAREY, ET AL., NPC RESEARCH, EXPLORING THE KEY
27 COMPONENTS OF DRUG COURTS: A COMPARATIVE STUDY OF 18 ADULT DRUG COURTS ON
28 PRACTICES, OUTCOMES AND COSTS (2008), available at [http://www.ncjrs.gov/pdffiles1/nij/grants/](http://www.ncjrs.gov/pdffiles1/nij/grants/223853.pdf)
29 [223853.pdf](http://www.ncjrs.gov/pdffiles1/nij/grants/223853.pdf).

30 Many states with drug court legislation directly reference and incorporate verbatim the

1 evidence-based and scientifically validated Ten Key Components. *See, e.g.*, ALA. CODE §12-23A-
2 2; FLA. STAT. § 397.334; 705 ILL. COMP. STAT. 410/10; MICH. COMP. LAWS § 600.1060; NEB. CT.
3 R. § 6-1207; N.H. REV. STAT. § 490-G:2; S.D. COD. LAWS § 16-22-5.1; TENN. CODE ANN. § 16-
4 6-103; W. VA. CODE § 62-15-2. If not explicitly referenced in the enabling laws, all states
5 incorporate the Ten Key Components into their drug court policies, procedures, and guidelines.
6 Numerous courts have expressly relied on the Ten Key Components in developing drug court
7 jurisprudence. *See, e.g.*, *Lawson v. State*, 969 So. 2d 222 (Fla. 2007); *State v. Leukel*, 979 So. 2d
8 292 (Fla. Ct. App. 2008); *Mullin v. Jenne*, 890 So. 2d 543 (Fla. Ct. App. 2005); *People v. Flick*,
9 2015 Ill. App. (5th) 130903-U (2015); *State v. Plouffe*, 329 P.3d 1255 (Mont. 2014); *State v.*
10 *Bullplume*, 305 P.3d 753 (Mont. 2013). In *Plouffe*, the court referred to the Ten Key Components
11 as the “premier authority on the goals and practice guidelines of treatment courts...” 329 P.3d at
12 1261.

13 Veterans treatment courts are administered with an immediate and highly structured
14 judicial intervention process for substance use disorder, mental health conditions, or other
15 assessed treatment needs of eligible veteran and servicemember defendants in order to provide
16 treatment that may influence a person shortly after a significant triggering event such as arrest,
17 and thus persuade or compel that person to enter and remain in treatment. Veterans treatment
18 courts bring together substance use disorder professionals, mental health professionals, federal
19 and state VA professionals, local social programs, and intensive judicial monitoring in
20 accordance with the nationally recommended key components of drug and veterans treatment
21 courts.
22

23 The veterans treatment court may refer to a network of substance use disorder treatment
24 programs representing a continuum of graduated substance use disorder treatment options
25 commensurate with the needs of defendants; these may include programs with the VA, the state,
26 and community-based programs supported and sanctioned by either or both. The veterans
27 treatment court may also, in its discretion, employ additional services or interventions, as it
28 deems necessary on a case by case basis. The veterans treatment court may refer to or collaborate
29 with a network of mental health treatment programs and, if it is a co-occurring mental health and
30 substance use disorder court program, a network of substance use disorder treatment programs
31 representing a continuum of treatment options commensurate with the needs of the defendant
32 and available resources including programs with the VA and the state. The court may, among
33 other appropriate and authorized pre-trial conditions, order the defendant to complete substance
34 use disorder treatment in an outpatient, inpatient, residential, or jail-based custodial treatment
35 program, order the defendant to complete mental health counseling in an inpatient or outpatient
36 basis, and comply with healthcare providers’ recommendations regarding follow up treatment. In
37 some jurisdictions funding may require a court order in order to secure services.
38

39 **SECTION 6. SUPPLEMENTAL COMPONENTS OF VETERANS TREATMENT**

40 **COURT.** A veterans treatment court may adopt supplemental policies and procedures to:

41 (1) refer a defendant with a medical or medication need to an appropriate health care
42 provider;

- 1 (2) refer a defendant to other available services, which may include assistance with
2 housing, employment, nutrition, and education;
- 3 (3) provide a defendant access to a mentor who is a servicemember or a veteran; and
- 4 (4) integrate intervention, treatment, and counseling, as part of the rehabilitative services
5 offered to a defendant who has been a victim of domestic violence, sexual trauma, child abuse,
6 or other trauma;
- 7 (5) confer with the victim or alleged victim of the domestic-violence offense that serves as
8 the basis for the defendant's participation in the veterans treatment court;
- 9 (6) evaluate and assess a defendant charged with a domestic-violence offense and integrate
10 specific counseling as part of the total rehabilitative services offered to the defendant;
- 11 (7) monitor a defendant charged with a domestic violence offense to assure compliance
12 with a domestic-violence protection order, no-contact order, and prohibition on weapon
13 possession; and
- 14 (8) otherwise assist the veterans treatment court.

15 **Comment**

16
17 Section 6 was drafted in order to identify opportunities where a court may find it helpful
18 to add components to its veterans treatment court. In particular, attention was paid to offering
19 treatment in domestic violence situations, whether the defendant was a victim or perpetrator of
20 this type of act.

21
22 The provision discussing mentoring services in the veterans treatment court is an
23 acknowledgment that one of the most attractive and unique aspects of this type of court is the
24 mentoring of a defendant by another veteran or servicemember with whom there is a shared
25 culture. These mentors volunteer their time and energy to assist their fellow veterans through
26 engagement, encouragement, and empowerment. In addition to mentors, defendants may be
27 assisted by peers who in addition to being a veteran or servicemember have personally
28 experienced any of the following: substance use disorder; mental health condition; traumatic
29 brain injury; incarceration; or homelessness; and may have received specific training as an
30 adjunct to treatment such as leading a group session.

31

1 **SECTION 7. ELIGIBILITY.**

2 (a) A defendant is eligible to participate in a veterans treatment court if

3 (1) the defendant has a mental-health condition, traumatic brain injury, alcohol-
4 use, or drug-abuse disorder;

5 (2) the defendant agrees on the court record to enter the veterans treatment court
6 voluntarily and adhere to a participant agreement; and

7 (3) the prosecutor, with regard to pretrial diversion, and the court, with regard to
8 post conviction cases, determines that participation in the veterans treatment court would be in
9 the interest of justice and of benefit to the defendant and the community.

10 (b) In making the determination under subsection (a)(3), the prosecutor and the court
11 shall consider:

12 (1) the nature and circumstances of the offense charged;

13 (2) special characteristics or circumstances of the defendant;

14 (3) the defendant's criminal history and whether the defendant previously has
15 participated in the veterans treatment court or a similar program;

16 (4) whether the defendant's needs exceed treatment resources available to the
17 veterans treatment court;

18 (5) the impact of participation and treatment on the community;

19 (6) recommendations of any law-enforcement agency involved in investigating or
20 arresting the defendant;

21 (7) special characteristics or circumstances of the victim or alleged victim;

22 (8) subject to subsection (c), recommendations of the victim or alleged victim;

23 (9) provision for and the likelihood of obtaining restitution from the defendant

1 over the course of participation;

2 (10) mitigating circumstances; and

3 (11) other circumstances reasonably related to the defendant’s case.

4 (c) In making the determination under subsection (a), the prosecutor and the court shall
5 seek the recommendations of the victim or alleged victim of the domestic violence offense that
6 serves as the basis for the defendant’s participation in the veterans treatment court.

7 **Comment**

8
9 This act does not require that the mental health condition, substance use disorder, or
10 traumatic brain injury making a defendant eligible for participation in veterans treatment court be
11 directly caused by a defendant’s service. This is done in recognition of the fact that many
12 veterans suffering from these conditions would likely be entitled to entry in the other therapeutic
13 courts, but would most directly benefit from participating in the veteran specific mentor
14 programs and focus of a veterans treatment court in order to multiply the probability of success.
15 Placing less requirements on entry to the veterans treatment court allows courts a wide latitude in
16 determining what is best for victims and defendants on a case-by-case basis.

17
18 There is also no requirement that the mental health condition, substance use disorder, or
19 traumatic brain injury have actually caused the crime being considered by the court for the
20 reasons discussed above.

21
22 Requiring the approval of the prosecutor to allow entry into the veterans treatment court
23 allows the state to ensure that crimes or defendants the state feels are inappropriate for
24 therapeutic diversion are prosecuted in the normal course. Prosecutors and courts in this act are
25 encouraged to determine the recommendations of alleged victims, but are required to solicit this
26 information from a victim of domestic violence before recommending a defendant’s participation
27 in the veterans treatment court.

28
29 This act uses the term “substance use disorder” to describe a defendant’s diagnosed
30 conditions regarding the misuse of or dependence upon substances both legal and illegal, to
31 include alcohol. The term “substance use disorder” has been used for some time by substance
32 use professionals and is the most accurate description endorsed by the U.S. Department of Health
33 and Human Services Substance Abuse and Mental Health Services Administration’s (SAMHSA)
34 Center for Substance Abuse Treatment. SAMHSA recognizes that when discussing substance
35 use disorders, words can be powerful by encouraging and supporting or, on the other hand,
36 isolating and shaming. Recognizing this power, SAMHSA proposes that the use of the term
37 “substance use disorder” is helpful because it encompasses a range of severity levels, from
38 problem use to dependence and addiction. This use of “substance use disorder” in this act
39 reflects this recognition.

40

1 In determining if a defendant is eligible for the veterans treatment court, the prosecutor or
2 court may require the defendant to divulge information regarding prior criminal charges;
3 education, work experience, and training; family history, including residence in the community;
4 medical and mental history, including psychiatric or psychological treatment or counseling; and
5 other information reasonably related to the likelihood of success of the treatment program.
6

7 **SECTION 8. PARTICIPANT AGREEMENT.** For a defendant to be admitted to a
8 veterans treatment court, the defendant, prosecutor, and veterans treatment court must be
9 provided with and sign the participant agreement. The veterans treatment court shall order the
10 defendant to be admitted into the veterans treatment court if the defendant is eligible and the
11 defendant’s participation would be in the interests of justice and of benefit to the defendant and
12 the community.

13 **SECTION 9. VICTIM OF DOMESTIC VIOLENCE.**

14 (a) If a victim or alleged victim of the domestic violence offense that serves as the basis
15 for the defendant’s participation in a veterans treatment court can reasonably be located, the
16 victim or alleged victim must be offered:

17 (1) referrals to services of domestic-violence providers; and

18 (2) information on how to report an allegation of an offense committed by the
19 defendant or a violation by the defendant of the participant agreement.

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

22 **Comment**

23 Special attention was given in the act to victims of domestic violence in recognition of
24 the fact that for many veterans, the family members are the support network that deal intimately
25 with mental health conditions, substance use disorders, and brain injury conditions. Providing
26 support to these victims may be crucial to maintaining stability in a defendant’s life while
27 providing treatment.

28
29 This act recognizes that victims of crimes are entitled to rights that vary from state to state.
30 These rights may dictate notice given to the victim regarding a defendant’s participation in court

1 programs or treatment, information regarding a defendant’s release from incarceration, referral to
2 various agencies and services, and a plethora of other matters. Because it would be impossible to
3 capture all of these rights in this act, the act was written to reinforce that a defendant’s
4 participation in a veterans treatment court does not abrogate a victim’s rights in any way.

5
6 **SECTION 10. MODIFICATION OR TERMINATION.** If a veterans treatment court
7 determines after a hearing that a defendant has not complied with the participant agreement, the
8 court may modify or terminate the defendant’s participation in the veterans treatment court.
9 Modification or termination will be subject to the participant agreement agreed to by the
10 defendant when entering the veterans treatment court.

11 **SECTION 11. COMPLETION OF THE PARTICIPANT AGREEMENT.** If the
12 veterans court determines that a defendant has completed the requirements of the participant
13 agreement, the court shall dispose of the charge that served as the basis of participation in the
14 veterans treatment court in accordance with the participant agreement and any applicable plea
15 agreement, court order, or judgment.

16 **SECTION 12. ACCESS TO RECORDS.**

17 (a) A statement or record made by a defendant in a veterans treatment court may be
18 subject to 42 U.S.C. Section 290dd-2, and 42 C.F.R. Part 2, as may be amended, regarding
19 confidentiality.

20 (b) Any individually-identifiable health information and record pertaining to a defendant
21 in a veterans treatment court undergoing alcohol and drug treatment may be subject to the
22 privacy regulations promulgated under the Health Insurance Portability and Accountability Act,
23 42 U.S.C. Section 1320d-6, and 45 C.F.R. parts 160, 162, and 164 [and state law that may
24 apply], as may be amended.

25 **Comment**

26 42 U.S.C. Section 290dd-2 and 42 Code of Federal Regulations, Part 2 regulate
27 disclosure of and access to information regarding patients who have applied for or received any

1 alcohol or drug use-related services, including assessment, diagnosis, counseling, group
2 counseling, treatment, or referral for treatment, from a covered program.

3 **SECTION 13. REMEDIAL NATURE; LIBERAL CONSTRUCTION.** This [act] is
4 remedial in nature and must be liberally construed.

5 **SECTION 14. NO RIGHT TO PARTICIPATE.** This [act] does not create a right to
6 participation in a veterans treatment court.

7 **SECTION 15. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**
8 **NATIONAL COMMERCE ACT.** This [act] modifies, limits, or supersedes the Electronic
9 Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not
10 modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize
11 electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C.
12 Section 7003(b).

13 **[SECTION 16. SEVERABILITY.** If any provision of this [act] or its application to
14 any person or circumstance is held invalid, the invalidity does not affect other provisions or
15 applications of this [act] which can be given effect without the invalid provision or application,
16 and to this end the provisions of this [act] are severable.]

17 *Legislative Note: Include this section only if the jurisdiction lacks a general severability statute*
18 *or a decision by the highest court of the jurisdiction stating a general rule of severability.*

19 **SECTION 17. REPEALS; CONFORMING AMENDMENTS.**

21 (a)

22 (b)

23 (c)

24 **SECTION 18. EFFECTIVE DATE.** This [act] takes effect....

1 **MODEL VETERANS TREATMENT COURT RULES**

2 **RULE 1. SHORT TITLE.** These [rules] may be cited as the Model Veterans

3 Treatment Court Rules.

4 **Comment**

5 The Model Veterans Treatment Court Rules were drafted in acknowledgment of the fact
6 that veterans and servicemembers have been recognized as having a shared culture that can aid in
7 the rehabilitation process normally found in a traditional drug or mental health treatment court.
8 Should courts desire to include others who have served their communities in this docket, for
9 example fire fighters and law enforcement personnel, they should feel free to expand the scope
10 of these rules to encompass those groups as desired.

11
12 Some jurisdictions choose to refer to these courts as veterans courts, while others refer to
13 the court as a veterans treatment court. In recognition of the fact that the overarching concern of
14 these courts is treatment for veteran defendants suffering from mental health conditions,
15 substance use disorders, and traumatic brain injuries, the title for these rules was drafted
16 accordingly.

17
18 **RULE 2. DEFINITIONS.** In these [rules]:

19 (1) “Defendant” means a veteran or servicemember charged with a criminal offense.

20 (2) “Domestic violence” means conduct as defined in [cite appropriate state statute
21 defining domestic violence].

22 (3) “Participant agreement” means the record required by Rule 4(a), which contains the
23 policies and procedures of a veterans treatment court and any specific terms and conditions
24 applicable to the defendant. The term includes a modification under Rule 10.

25 (4) “Record” means information that is inscribed on a tangible medium or that is stored in
26 an electronic or other medium and is retrievable in perceivable form.

27 (5) “Servicemember” means:

28 (A) a current member of the active or reserve components of the Army, Navy, Air
29 Force, Marine Corps, or Coast Guard of the United States; or

30 (B) a current member of the National Guard [or state defense forces].

1 (6) “Sign” means, with present intent to authenticate or adopt a record:

2 (A) to execute or adopt a tangible symbol; or

3 (B) to attach to or logically associate with the record an electronic
4 symbol, sound, or process.

5 (7) “State” means a state of the United States, the District of Columbia, Puerto Rico, the
6 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
7 the United States. The term includes a federally recognized Indian tribe.

8 (8) “Veteran” means a former servicemember, regardless of the character of the
9 servicemember’s discharge.

10 (9) “Veterans treatment court” means a veterans and servicemembers [docket] [calendar]
11 administered under this [act] by a court in this state.

12 *Legislative Note: Defense forces referred to in paragraph (5)(B) should be changed to the name*
13 *used to refer to the enacting state’s defense forces.*

14
15 **Comment**

16
17 The definition of “defendant” includes both veterans and those servicemembers
18 serving on active duty. While it may be difficult for active duty servicemembers to meet the
19 strict requirements of a veterans treatment court while fulfilling their active duty service
20 obligations, writing this definition broadly gives courts and defendants latitude to determine
21 the veterans treatment court’s helpfulness in each individual case. This broad definition may
22 also allow the court to partner with Department of Defense (DoD) medical and counseling
23 providers when allowing the participation of an active duty servicemember in the veterans
24 treatment court.

25
26 The definition of “participant agreement” was drafted with the understanding that
27 often defendants may be admitted to a veterans treatment court based upon plea agreements,
28 court orders, or judgments regarding the disposition of defendant’s charges upon successful
29 completion of veterans treatment court. Pursuant to a specific veterans treatment court
30 policies and procedures, these agreements, court orders, or judgments may be included in the
31 participant agreement itself, or may be ancillary to the participant agreement. Because the
32 method of disposing of charges will vary, “participant agreement” is defined in a manner that
33 does not constrain individual jurisdictions regarding disposition.

34
35 The definitions of “servicemember” and “veteran” broadly include any person who

1 served in the United States Armed Forces in any of the widely recognized branches of the
2 military or state defense forces. State defense forces are called upon periodically for many
3 different missions within the state including disaster relief, riot control, and the like. These
4 definitions recognize the service of state defense force members, who may encounter the
5 same types of situations as federal military servicemembers and would likely benefit from the
6 veteran mentorship programs typically implemented in veterans treatment courts.

7
8 The definition of “veterans treatment court” specifically allows courts to adopt a
9 veterans treatment court as a separate docket, calendar, or similar term used in local practice,
10 of an existing court and avoids requiring jurisdictions to set up separate courts for this
11 purpose.

12
13 There is specifically no mention made here of the “character of discharge” a veteran is
14 required to have to be eligible for participation in the veterans treatment court. When a
15 servicemember is discharged from the military, the DoD “characterizes” that member’s service
16 in order to describe how that member served his/her nation. DoD currently uses five main types
17 of characterizations of discharge: Honorable, General (under Honorable conditions), Other Than
18 Honorable, Bad Conduct Discharge, and Dishonorable Discharge. There are other types of
19 discharges to include discharges that cannot be characterized because the member has served
20 such a short time.

21
22 Characters of Discharge become important in regards to treatment because the
23 Department of Veterans Affairs (VA) has specific character of discharge requirements for
24 determining which veterans will get access to medical care at the VA Medical Centers and
25 benefits. The VA requires that a veteran have an “other than dishonorable” discharge to qualify
26 for benefits and health care at the VA. The VA has interpreted this phrase to mean that veterans
27 with Honorable and General discharges are automatically qualified for most benefits including
28 health care and disability benefits. Veterans with an Other Than Honorable discharge are
29 reviewed on a case-by-case basis to determine if their service was “dishonorable.” Veterans with
30 Bad Conduct and Dishonorable Discharges are automatically disqualified. The Other Than
31 Honorable, Bad Conduct, and Dishonorable Discharges are often referred to as “bad paper
32 discharges.”

33
34 It is well documented in the media, congressional reports and investigations, and current
35 lawsuits that the DoD has separated servicemembers from the military for misconduct that
36 resulted from undiagnosed or untreated mental health conditions or brain injury disabilities
37 caused during a veteran’s service. These separations often result in bad paper discharges that
38 prevent veterans from receiving health care benefits from the VA, often leaving veterans in these
39 situations completely untreated for disabilities related to their service. Many of the veterans who
40 suffer from bad paper discharges commit crimes that, but for the character of their discharge,
41 would allow them entry into a veterans treatment court. In December 2016, Congress recognized
42 the conundrum of bad paper discharges in the passage of Public Law 114-328, Section 535
43 amending Section 1553(d) of title 10, United States Code. This provision now requires DoD to
44 liberally reconsider bad paper discharges where post-traumatic stress or traumatic brain injury
45 may have led to the misconduct resulting in the discharge in certain instances. This recognition
46 that many bad paper discharges may have been affected by mental health conditions or brain

1 injuries was supported by many of America’s Veterans Service Organizations. In addition, the
2 American Bar Association resolved in 2017 that barriers preventing veterans’ access to treatment
3 and other services should be removed if at all possible.
4

5 Some veterans treatment courts have chosen to limit veteran participation in the veterans
6 treatment court to those with good characters of service because the VA will participate in
7 providing treatment for the veterans’ disabilities in those cases. While finding resources that
8 may be provided to the defendant at no cost to the court or defendant is certainly a consideration,
9 it seems prudent to allow courts and judges the latitude to determine whether or not a defendant’s
10 situation and the court’s available treatment resources would make participation in veterans
11 treatment court successful. A blanket prohibition on veterans with bad paper discharges seems
12 unwarranted and unnecessarily binds the court in what may otherwise be a compelling case for
13 entry into the veterans treatment court.
14

15 There is no requirement in these definitions that a veteran have combat service in
16 order to be eligible to participate in a veterans treatment court. Allowing all veterans to
17 participate if the court determines that participation is helpful recognizes that some
18 disabilities are not incurred in combat, but may come from other events. For instance,
19 military sexual trauma, which refers to instances of sexual assault or repeated sexual
20 harassment perpetrated upon a servicemember, is now widely recognized and any residual
21 mental health conditions or substance use disorders related to this event could be permitted
22 entry into the veterans treatment court.
23

24 **RULE 3. AUTHORIZATION.**

25 (a) A court that has jurisdiction in a criminal case may administer a veterans treatment
26 court.

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

28 (c) An eligible defendant eligible under these [rules] may be admitted to the veterans
29 treatment court at any stage in a criminal proceeding.

30 **Comment**

31 These rules allow for a wide variety of approaches through which a veterans treatment
32 court may be implemented by local and court rules. These rules also allow states to determine the
33 court in which implementation may be best accomplished. The rules allow for the inclusion of
34 felony and misdemeanor offenses in order to give the court the broadest latitude to determine the
35 appropriateness of a defendant’s participation in veterans treatment court based upon the other
36 considerations in Rule 8 of these rules.
37

- 1 (7) providing ongoing judicial interaction with each defendant;
- 2 (8) monitoring and evaluating the achievement of goals;
- 3 (9) continuing interdisciplinary education to promote effective veterans treatment court
- 4 planning, implementation, and operations; and
- 5 (10) forging partnerships among the veterans treatment court, the United States
- 6 Department of Veterans Affairs, the [appropriate state or local agency], public agencies, and
- 7 community-based organizations to generate local support and enhance the effectiveness of the
- 8 veterans treatment court.

9 **Comment**

10 In light of the understanding that courts maintain autonomy in the structure of a defendant's

11 participation in order to make the veterans treatment court most effective for all involved, care has

12 been taken to refrain from dictating to courts precisely what a veterans treatment court must

13 include. However, there are some characteristics of veterans treatment court that are widely agreed

14 upon.

15 Rule 5 incorporates the National Association of Drug Court Professionals' Ten Key

16 Components of Drug Courts. These evidence-based, scientifically validated principles are industry

17 best practice standards and they should not be substantively altered.

18 In 1997, the National Association of Drug Court Professionals published *Defining Drug*

19 *Courts: The Ten Key Components*. These ten key components quickly became the framework for

20 drug courts and other problem-solving courts. Over the past two decades, research now confirms

21 that drug courts are more likely to accomplish their goals by faithfully adhering to the Ten Key

22 Components. See SHANNON M. CAREY, ET AL., NPC RESEARCH, EXPLORING THE KEY

23 COMPONENTS OF DRUG COURTS: A COMPARATIVE STUDY OF 18 ADULT DRUG COURTS ON

24 PRACTICES, OUTCOMES AND COSTS (2008), available at [http://www.ncjrs.gov/pdffiles1/nij/grants](http://www.ncjrs.gov/pdffiles1/nij/grants/223853.pdf)

25 [/223853.pdf](http://www.ncjrs.gov/pdffiles1/nij/grants/223853.pdf).

26 Many states with drug court legislation directly reference and incorporate verbatim the

27 evidence-based and scientifically validated Ten Key Components. See, e.g., ALA. CODE §12-23A-

28 2; FLA. STAT. § 397.334; 705 ILL. COMP. STAT. 410/10; MICH. COMP. LAWS § 600.1060; NEB. CT.

29 R. § 6-1207; N.H. REV. STAT. § 490-G:2; S.D. COD. LAWS § 16-22-5.1; TENN. CODE ANN. § 16-

30 6-103; W. VA. CODE § 62-15-2. If not explicitly referenced in the enabling laws, all states

31 incorporate the Ten Key Components into their drug court policies, procedures, and guidelines.

32 Numerous courts have expressly relied on the Ten Key Components in developing drug court

33 jurisprudence. See, e.g., *Lawson v. State*, 969 So. 2d 222 (Fla. 2007); *State v. Leukel*, 979 So. 2d

34 292 (Fla. Ct. App. 2008); *Mullin v. Jenne*, 890 So. 2d 543 (Fla. Ct. App. 2005); *People v. Flick*,

1 2015 Ill. App. (5th) 130903-U (2015); *State v. Plouffe*, 329 P.3d 1255 (Mont. 2014); *State v.*
2 *Bullplume*, 305 P.3d 753 (Mont. 2013). In *Plouffe*, the court referred to the Ten Key Components
3 as the “premier authority on the goals and practice guidelines of treatment courts...” 329 P.3d at
4 1261.

5 Veterans treatment courts are administered with an immediate and highly structured
6 judicial intervention process for substance use disorder, mental health conditions, or other
7 assessed treatment needs of eligible veteran and servicemember defendants in order to provide
8 treatment that may influence a person shortly after a significant triggering event such as arrest,
9 and thus persuade or compel that person to enter and remain in treatment. Veterans treatment
10 courts bring together substance use disorder professionals, mental health professionals, federal
11 and state VA professionals, local social programs, and intensive judicial monitoring in
12 accordance with the nationally recommended key components of drug and veterans treatment
13 courts.

14
15 The veterans treatment court may refer to a network of substance use disorder treatment
16 programs representing a continuum of graduated substance use disorder treatment options
17 commensurate with the needs of defendants; these may include programs with the VA, the state,
18 and community-based programs supported and sanctioned by either or both. The veterans
19 treatment court may also, in its discretion, employ additional services or interventions, as it
20 deems necessary on a case by case basis. The veterans treatment court may refer to or collaborate
21 with a network of mental health treatment programs and, if it is a co-occurring mental health and
22 substance use disorder court program, a network of substance use disorder treatment programs
23 representing a continuum of treatment options commensurate with the needs of the defendant
24 and available resources including programs with the VA and the state. The court may, among
25 other appropriate and authorized pre-trial conditions, order the defendant to complete substance
26 use disorder treatment in an outpatient, inpatient, residential, or jail-based custodial treatment
27 program, order the defendant to complete mental health counseling in an inpatient or outpatient
28 basis, and comply with healthcare providers’ recommendations regarding follow up treatment. In
29 some jurisdictions funding may require a court order in order to secure services.

30

31 **RULE 6. SUPPLEMENTAL COMPONENTS OF VETERANS TREATMENT**

32 **COURT.** A veterans treatment court may adopt supplemental policies and procedures to:

33 (1) refer a defendant with a medical or medication need to an appropriate health care
34 provider;

35 (2) refer a defendant to other available services, which may include assistance with
36 housing, employment, nutrition, and education;

37 (3) provide a defendant access to mentor who is a servicemember or a veteran;

38 (4) integrate intervention, treatment, and counseling, as part of the rehabilitative services

1 offered to a defendant who has been a victim of domestic violence, sexual trauma, child abuse,
2 or other trauma;

3 (5) confer with the victim or alleged victim of the domestic-violence offense that serves
4 as the basis for the defendant’s participation in the veterans treatment court ;

5 (6) evaluate and assess a defendant charged with a domestic-violence offense and
6 integrate specific counseling as part of the rehabilitative services offered to the defendant;

7 (7) monitor a defendant charged with a domestic-violence offense to assure compliance
8 with a domestic-violence protection order, no-contact order, and prohibition on weapon
9 possession; and

10 (8) otherwise assist the veterans treatment court.

11 **Comment**

12
13 Rule 6 was drafted in order to identify opportunities where a court may find it helpful to
14 add components to its veterans treatment court. In particular, attention was paid to offering
15 treatment in domestic violence situations, whether the defendant was a victim or perpetrator of
16 this type of act.

17
18 The provision discussing mentoring services in the veterans treatment court is an
19 acknowledgment that one of the most attractive and unique aspects of this type of court is the
20 mentoring of a defendant by another veteran or servicemember with whom there is a shared
21 culture. These mentors volunteer their time and energy to assist their fellow veterans through
22 engagement, encouragement, and empowerment. In addition to mentors, defendants may be
23 assisted by peers who in addition to being a veteran or servicemember have personally
24 experienced any of the following: substance use disorder; mental health condition; traumatic
25 brain injury; incarceration; or homelessness; and may have received specific training as an
26 adjunct to treatment such as leading a group session.

27
28 **RULE 7. ELIGIBILITY.**

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

30 (1) the defendant has a mental-health condition, traumatic brain injury, alcohol-
31 use, or drug-use disorder;

32 (2) the defendant agrees on the court record to enter the veteran

1 treatment court voluntarily and adhere to a participant agreement; and

2 (3) the prosecutor, with regard to pretrial diversion, and the court
3 , with regard to post conviction cases, determines that participation in the veterans treatment
4 court would be in the interest of justice and of benefit to the defendant and the community.

5 (b) In making the determination under subsection (a)(3), the prosecutor and the court
6 shall consider:

7 (1) the nature and circumstances of the offense charged;

8 (2) special characteristics or circumstances of the defendant;

9 (3) the defendant's criminal history and whether the defendant previously has
10 participated in the veterans treatment court or a similar program;

11 (4) whether the defendant's needs exceed treatment resources available to the
12 veterans treatment court;

13 (5) the impact of participation and treatment on the community;

14 (6) recommendations of any law-enforcement agency involved in investigating or
15 arresting the defendant;

16 (7) special characteristics or circumstances of the victim or alleged victim;

17 (8) subject to subsection (c), recommendations of the victim or alleged victim;

18 (9) provision for and the likelihood of obtaining restitution from the defendant
19 over the course of participation;

20 (10) mitigating circumstances; and

21 (11) other circumstances reasonably related to the defendant's case.

22 (c) In making the determination under subsection (a), the prosecutor and the court shall
23 seek the recommendations of the victim or alleged victim of the domestic violence offense that

1 serves as the basis for the defendant’s participation in the veterans treatment court.

2 **Comment**

3
4 These rules do not require that the mental health condition, substance use disorder, or
5 traumatic brain injury making a defendant eligible for participation in veterans treatment court be
6 directly caused by a defendant’s service. This is done in recognition of the fact that many
7 veterans suffering from these conditions would likely be entitled to entry in the other therapeutic
8 courts, but would most directly benefit from participating in the veteran specific mentor
9 programs and focus of a veterans treatment court in order to multiply the probability of success.
10 Placing less requirements on entry to the veterans treatment court allows courts a wide latitude in
11 determining what is best for victims and defendants on a case-by-case basis.

12
13 There is also no requirement that the mental health condition, substance use disorder, or
14 traumatic brain injury have actually caused the crime being considered by the court for the
15 reasons discussed above.

16
17 Requiring the approval of the prosecutor to allow entry into the veterans treatment court
18 allows the state to ensure that crimes or defendants the state feels are inappropriate for
19 therapeutic diversion are prosecuted in the normal course. Prosecutors and courts in these rules
20 are encouraged to determine the recommendations of alleged victims, but are required to solicit
21 this information from a victim of domestic violence before recommending a defendant’s
22 participation in the veterans treatment court.

23
24 These rules use the term “substance use disorder” to describe a defendant’s diagnosed
25 conditions regarding the misuse of or dependence upon substances both legal and illegal, to
26 include alcohol. The term “substance use disorder” has been used for some time by substance
27 use professionals and is the most accurate description endorsed by the U.S. Department of Health
28 and Human Services Substance Abuse and Mental Health Services Administration’s (SAMHSA)
29 Center for Substance Abuse Treatment. SAMHSA recognizes that when discussing substance
30 use disorders, words can be powerful by encouraging and supporting or, on the other hand,
31 isolating and shaming. Recognizing this power, SAMHSA proposes that the use of the term
32 “substance use disorder” is helpful because it encompasses a range of severity levels, from
33 problem use to dependence and addiction. This use of “substance use disorder” in these rules
34 reflects this recognition.

35
36 In determining if a defendant is eligible for the veterans treatment court, the prosecutor
37 or court may require the defendant to divulge information regarding prior criminal charges;
38 education, work experience, and training; family history, including residence in the community;
39 medical and mental history, including psychiatric or psychological treatment or counseling; and
40 other information reasonably related to the likelihood of success of the treatment program.

41
42 **RULE 8. PARTICIPANT AGREEMENT.** For a defendant to be admitted to a
43 veterans treatment court, the defendant, prosecutor, and veterans treatment court must be

1 provided with and sign the participant agreement. The veterans treatment court shall order the
2 defendant to be admitted into the veterans treatment court if the defendant is eligible and the
3 defendant's participation would be in the interests of justice and of benefit to the defendant and
4 the community.

5
6 **RULE 9. VICTIM OF DOMESTIC VIOLENCE.**

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

10 (1) referrals to services of domestic-violence providers; and

11 (2) information on how to report an allegation of an offense committed by the
12 defendant or a violation by the defendant of the participant agreement.

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

15 **Comment**

16 Special attention was given in the rules to victims of domestic violence in recognition of
17 the fact that for many veterans, the family members are the support network that deal intimately
18 with mental health conditions, substance use disorders, and brain injury conditions. Providing
19 support to these victims may be crucial to maintaining stability in a defendant's life while
20 providing treatment.

21
22 These rules recognize that victims of crimes are entitled to rights that vary from state to
23 state. These rights may dictate notice given to the victim regarding a defendant's participation in
24 court programs or treatment, information regarding a defendant's release from incarceration,
25 referral to various agencies and services, and a plethora of other matters. Because it would be
26 impossible to capture all of these rights in this act, the rules were written to reinforce that a
27 defendant's participation in a veterans treatment court does not abrogate a victim's rights in any
28 way.

29 **RULE 10. MODIFICATION OR TERMINATION.** If a veterans treatment court
30 determines after a hearing that a defendant has not complied with the participant agreement, the

1 court may modify or terminate the defendant’s participation in the veterans treatment court.
2 Modification or termination will be subject to the participant agreement agreed to by the
3 defendant when entering the veterans treatment court.

4 **RULE 11. COMPLETION OF THE PARTICIPANT AGREEMENT.** If the
5 veterans court determines that a defendant has completed the requirements of the participant
6 agreement, the court shall dispose of the charge that served as the basis of participation in the
7 veterans treatment court in accordance with the participant agreement and any applicable plea
8 agreement, court order, or judgment.

9 **RULE 12. ACCESS TO RECORDS.**

10 (a) A statement or record made by a defendant in a veterans treatment court may be
11 subject to 42 U.S.C. Section 290dd-2, and 42 C.F.R. Part 2, as may be amended, regarding
12 confidentiality.

13 (b) Any individually-identifiable health information and record pertaining to a defendant
14 in a veterans treatment court undergoing alcohol and drug treatment may be subject to the
15 privacy regulations promulgated under the Health Insurance Portability and Accountability Act,
16 42 U.S.C. Section 1320d-6, and 45 C.F.R. parts 160, 162, and 164 [and state law that may
17 apply], as may be amended.

18 **Comment**

19 42 U.S.C. Section 290dd-2 and 42 Code of Federal Regulations, Part 2 regulate
20 disclosure of and access to information regarding patients who have applied for or received any
21 alcohol or drug use-related services, including assessment, diagnosis, counseling, group
22 counseling, treatment, or referral for treatment, from a covered program.

23 **RULE 13. REMEDIAL NATURE; LIBERAL CONSTRUCTION.** These rules are
24 remedial in nature and must be liberally construed.

25 **RULE 14. NO RIGHT TO PARTICIPATE.** [These rules] do not create a right to

1 participate in a veterans treatment court.

2 **RULE 15. EFFECTIVE DATE.** These rules take effect....