



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

### *- A Summary -*

The veteran population suffering from combat related conditions continues to rise. This recent rise is attributable to the protracted conflicts in the Middle East and South Asia as well as a better understanding of the linkage of service related mental health disorders and criminal activity. This information, coupled with the success of diversionary courts in other areas such as drug treatment courts and mental health courts, has led to the creation of veterans treatment courts in a number of jurisdictions across the United States. Veterans treatment courts ensure that veterans in the criminal justice system receive the treatment and support necessary to rehabilitate them back into being productive members of society. Recognizing that veterans have a shared cultural experience, the success of a veterans treatment court is often found in pairing the defendant with a veteran mentor who supports and encourages the defendant's recovery. Very few states have legislation on veterans treatment courts, but many local judicial jurisdictions have created veterans treatment courts by rule or practice. This ad hoc creation of veterans treatment courts has led to wide variation within states and at the national level regarding which veterans are qualified to participate in these courts and how the veterans' participation is managed. As a result, there was a need to provide states with a model veterans court statute and rules that would address this growing issue.

In response to this issue, the Uniform Law Commission drafted and approved the Model Veterans Treatment Court Act and Model Veterans Treatment Court Rules. This model legislation has been drafted in two alternative ways to allow it to be enacted by state statute or, in the alternative, as court rules. The model act and rules allow a veteran to participate in a veterans treatment court regardless of the character of his or her discharge from service, allowing judges and prosecutors the widest latitude possible to decide whether a defendant's situation and the court's available treatment resources would make participation in a veterans treatment court successful. This act allows veterans suffering from traumatic brain injury, a mental-health condition, or substance use disorder to participate in the veterans treatment court program, regardless of how these injuries or conditions were incurred. Furthermore, the act does not require that a veteran have combat service in order to be eligible to participate in a veterans treatment court, recognizing that some disabilities are not incurred in combat, but may come from other events.

The act and rules authorize a court to administer a veterans court that can adjudicate misdemeanor and felony offenses in order to give the court the broadest latitude for the appropriateness of a defendant's participation in a veterans treatment court based on the requirements of the participation agreement. Furthermore, an eligible veteran defendant may be admitted into the veterans treatment court at any stage of the proceeding. A state that chooses to enact this model legislation also has the option to include others who served the local community on the veterans treatment court docket, such as firefighters and law enforcement personnel. The act and rules mandate that a veterans treatment court must create a record of policies and procedures regarding implementation of the docket and do so with the assistance of prosecutors, defense counsel, and other interested parties.

The model act and rules have been drafted based on the widely recognized National Association of Drug

Court Professional's Ten Key Components of Drug Courts, which serve as evidence-based, scientifically validated principles which are considered industry best practices. These ten key components serve as an outline of policy and procedures for the veterans treatment court. The components allow a veterans treatment court to forge partnerships with a network of substance use disorder treatment programs, such as the U.S. Department of Veteran Affairs, the state, and community-based programs supported and sanctioned by either or both. The veterans treatment court may also, in its discretion, employ additional services or interventions as it deems necessary on a case by case basis. The model act and rules also authorize a veterans treatment court to adopt supplemental policies and procedures to offer treatment for cases of domestic violence, whether the defendant was a victim or perpetrator, as well as provide mentoring services that involve another veteran or servicemember with whom there is a shared culture.

The model act and rules require that in order for a defendant to be admitted to a veterans treatment court, the defendant, prosecutor, and veterans treatment court must be provided with and sign the participation agreement. The model legislation is designed to allow the prosecutor and the court to determine the suitability of a defendant to participate in a veterans treatment court as part of pretrial diversion. In all other cases, the court has the authority to determine a defendant's admission. The defendant will be admitted into the veterans treatment court if the defendant is eligible and the defendant's participation would be in the interests of justice and of benefit to the defendant and the community.

The model legislation gives special attention to victims of domestic violence, recognizing that rights of victims of crimes may vary from state to state. The act provides that if a victim or alleged victim of the domestic violence offense that serves as the basis for the defendant's participation in a veterans treatment court can reasonably be located, the victim or alleged victim must be offered (1) referrals to services of domestic-violence providers, as well as (2) information on how to report an allegation of an offense committed by the defendant or a violation by the defendant of the participation agreement. The model act and rules provide that participation of the defendant in a veterans treatment court does not alter the rights of a victim or alleged victim of domestic violence under other law.

In the event that a defendant does not comply with the participation agreement, the court is given the ability to modify or terminate the defendant's participation in the veterans treatment court. Additionally, if a defendant completes the requirements of the participation agreement, the model act and rules mandate that the court shall dispose of the charges that serve as the basis of participation in the veterans treatment court in accordance with the participant agreement and any applicable plea agreement, court order, or judgment.

The model act and rules refer to federal law in governing the confidentiality of access to records in a veterans treatment court. 42 U.S.C. Section 290dd-2 and 42 Code of Federal Regulations, Part 2 regulate disclosure of and access to information regarding patients who have applied for or received any alcohol or drug use-related services.

For further information about the Model Veterans Treatment Court Act and Model Veterans Treatment Court Rules, please contact Lindsay Beaver, ULC Legislative Counsel, at (312) 450-6618 or [lbeaver@uniformlaws.org](mailto:lbeaver@uniformlaws.org).