

## MEMORANDUM

To: Committee of the Whole, 2016 ULC Annual Meeting, Stowe

From: Harry L. Tindall, Chair  
Stacey-Rae Simcox, Reporter

Re: Model Veterans Court Act Initial Read

Date: June 5, 2016

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### **Background:**

Veterans courts are the newest therapeutic court model in the country. The popularity of veterans courts is manifest in the number of these courts popping up all over the United States and the number of conferences and organizations focusing on their successes and challenges. Despite the prevalence of veterans courts, establishing how many veterans courts exist across the country is a difficult matter because there is very little state oversight of these courts. Even within jurisdictions, veterans court dockets vary in the types of crimes heard and the types of disabilities considered for entry into the program.

At the first meeting of the Model Veterans Court Act Committee in November 2015, there were approximately 215-230 veterans courts in existence across 37 states. The number of actual veterans courts is an approximation because the exact number is unknown. At the same time, only ten states had statutes regarding the creation of veterans courts and these statutes vary wildly from state to state.

In the hopes of providing some guidance to legislatures looking to adjust existing legislation or create entirely new legislation on this subject, the Model Veterans Court Act Committee was created. The Committee has been joined by a number of active observers who include: those who practice in veterans courts; organizations involved in the veterans courts process; experts in therapeutic courts; judges who preside over veterans courts; and representatives from a number of veterans organizations interested in the success of the veterans court model.

### **Brief Explanation of Selected Portions of the Act:**

#### **Section 2: Definitions.**

This section exemplifies a number of policy decisions of the Committee that were discussed and agreed upon at the first meeting of the Committee in November 2015.

First, this act is intended to allow both former members of all types of military service and those who are currently serving to take advantage of the veterans court program if the court and the prosecutor believe it is in the best interests of all concerned.

Second, veterans with any type of character of discharge are eligible to take part in the veterans court. While some existing veterans courts limit the participation of a veteran to those with Honorable discharges, the Committee decided that participation for every veteran is important. Particularly in light of some of the concerns with poor character of discharges servicemembers may receive when suffering from undiagnosed mental health conditions or traumatic brain injury disabilities.

Third, the Committee decided that the defendant's misconduct is not required to stem from a disability caused by one's service. Nor does the qualifying disability for entry into the program need to be caused by one's service. This decision recognizes that the veterans court program can be of particular help to veteran defendants regardless of the etiology of their disability or the impetus for their crimes. Veterans courts implement a unique mentorship philosophy that appears to be quite successful partnering veterans with other veterans who know the challenges and rewards of military service and often speak to the defendants in ways military members understand and respect.

### **Section 3. Authorization.**

The Committee believed it was prudent to allow the court and the prosecutor great latitude in deciding which crimes were best adjudicated in the veterans court. Therefore both misdemeanor and felony crimes are appropriately heard in the veterans court.

### **Section 4: Components.**

This section incorporates the ten principles of a veterans court as adopted by the organization Justice for Vets, a mentorship organization heavily involved in the veterans courts movement across the country. These tenets are revisions of the traditional drug court principles adopted by the National Association of Drug Court Professionals.

### **Section 8. Eligibility and Admission.**

This section is meant to codify admission requirements for the veterans court program. The Committee specifically adopted the requirement that a defendant must suffer from a mental health, substance abuse, or traumatic brain injury condition in order to participate in this therapeutic court. The defendant's participation in this program must be voluntary, and this section of the statute requires a prosecutor's concurrence that the veteran's participation in the program is best for all involved and serves the interests of justice. The prosecutor is permitted to consider a number of factors in this decision, but is specifically required here to consult with and get the opinion of an alleged victim of domestic abuse concerning participation in the program.

Section 8 also requires that the terms and conditions of the defendant's participation in the Veterans court program be written and agreed to by all parties. This formalization of the

agreement allows for later modification, termination, or successful completion of the program as anticipated in Sections 10 and 11.

**Section 9. Victims of Domestic Violence.**

Victims of domestic violence were specifically considered by the Committee and provided for elsewhere in the act and in this separate section. This section allows the veterans court to offer support mechanisms and counseling to these victims in recognition of the fact that these victims are often the only support structure for a struggling veteran/servicemember defendant. The health and wellbeing of the loved ones of the defendant is crucial to the overall success of the defendant and the cohesiveness of these family units.

Respectfully Submitted,

Harry L. Tindall  
Stacey-Rae Simcox