

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT,
IN AND FOR BREVARD COUNTY

ADMINISTRATIVE ORDER NO.:
19-36-B
SUPERSEDES 11-38-B

IN RE: VETERANS' TREATMENT COURT

WHEREAS, the Florida Statutes sections 394.47891; 948.08(7)(a),(b) and (c); 948.16(2)(a) and (b); and, 948.21, Florida Statutes (as amended by 2019 Fla. Sess. Law Serv. Ch. 2019-61 (S.B. 910), effective October 1, 2019), authorizes the chief judge to establish felony and/or misdemeanor pretrial or post-adjudicatory veterans' treatment intervention programs to address the military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problems of veterans and service members charged with, or on probation or community control for, criminal offenses; and

WHEREAS, the purpose of Veterans' Treatment Court (VTC) is to reduce recidivism by emphasizing treatment and rehabilitation as an alternative to incarceration, while also requiring offender accountability and increasing public safety; and

WHEREAS, there is a recognized need to bring defendants qualified to participate in the VTC before a judge assigned to expeditiously and efficiently move veterans with service-related issues from an overcrowded jail system into veteran treatment programs without compromising the safety of the public; and

WHEREAS, a centralized VTC that utilizes available Veteran Administration and Veteran Mentor Volunteer resources and support systems will increase the efficiency of the criminal court system in Brevard County and permit better access to services needed by veterans; and

WHEREAS, the U.S. Department of Veterans Affairs, Brevard County Veterans Services Office, and Brevard County Veteran Mentor Volunteer resources assist the court with the provision of services for veterans eligible to receive benefits and provide meaningful treatment for veterans as well as assisting veterans in securing housing, employment opportunities, job training, education, transportation, disability compensation claims, discharge status and other benefits available at the local, state and federal level;

NOW THEREFORE, by authority vested in me as Chief Judge and pursuant to the Florida Rules of Judicial Administration, it is ORDERED:

- I. PRETRIAL INTERVENTION PROGRAM:

- A. In order to participate in the pretrial intervention program of the VTC, a defendant must meet the following criteria:
1. Misdemeanor Cases – section 948.16(2)(a), Florida Statutes
 - a. The defendant is a veteran, as defined in section 1.01, including a veteran who is discharged or released under any condition; a servicemember, as defined in section 250.01; an individual who is a current or former U.S. Department of Defense contractor; or an individual who is a current or former military member of a foreign allied country.
 - b. The defendant suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, and will complete the Application for Veterans Treatment Court provided by the Office of the State Attorney, and VA Form 10-5345 Request for and Authorization to Release Medical and Health Information.
 - c. The defendant is charged with a city or county ordinance violation or a misdemeanor offense.
 - d. The defendant voluntarily agrees to participate in VTC for a period of time based on the program's requirements and the treatment plan for the offender.
 - e. The court may deny the defendant admission into the misdemeanor pretrial veterans treatment program if the defendant has previously entered a court-ordered veterans' treatment program, or, in the court's discretion, otherwise determines the defendant should not be admitted into VTC.
 2. Felony Cases – section 948.08(7)(a), Florida Statutes
 - a. The defendant is a veteran, as defined in section 1.01, including a veteran who is discharged or released under any condition; a servicemember, as defined in section 250.01; an individual who is a current or former U.S. Department of Defense contractor; or an individual who is a current or former military member of a foreign allied country.
 - b. The defendant suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, and will complete the Application for Veterans Treatment Court provided by the Office of the State Attorney, and VA Form 10-5345 Request for and Authorization to Release Medical and Health Information.
 - c. The defendant is charged with a felony, other than a felony listed in section 948.06(8)(c), Florida Statutes.
 - d. The defendant is eligible for voluntary admission into the pretrial VTC upon motion of either party or the court's own motion.

- e. The court may deny the defendant admission into the pretrial veterans' treatment program if (1) the defendant was previously offered admission to a pretrial veterans' treatment intervention program at any time before trial and the defendant rejected that offer on the record; or (2) the defendant has previously entered a court-ordered veterans' treatment program, or, in the court's discretion, otherwise determines the defendant should not be admitted into VTC.
 - f. If the defendant and the Office of the State Attorney do not agree on the defendant's admission into VTC, the court shall hold a hearing wherein the parties present evidence they deem appropriate; the court shall use its discretion in determining the defendant's admission.
- B. Efforts should be made to identify potentially eligible defendants as early as possible. Initial identification should be the responsibility of all entities involved, including the court, the Office of the State Attorney, defense counsel, law enforcement at booking, the Brevard County jail, Veterans' organizations, and the defendant. The issue of eligibility for VTC may be raised at any court proceeding by the defendant, defense counsel, the Office of the State Attorney, or the court. Determination of eligibility shall be set for a subsequent hearing.
 - C. Prior to the first hearing in VTC, the defendant's VA eligibility status shall be verified by the Veterans Justice Outreach Specialist for a determination that the defendant meets the eligibility criteria. The defendant must be eligible to receive medical treatment through the Veterans Administration or otherwise be approved by the court for entry into Veterans' Treatment Court despite VA ineligibility.
 - D. At the defendant's first hearing in VTC, the presiding judge will confirm the defendant's eligibility for the program, provide appropriate instructions and information about the program, and confirm that the defendant's participation in VTC is voluntary. Upon acceptance into the VTC, the defendant voluntarily agrees to waive speedy trial.
 - E. If it is determined that the defendant is not eligible for or is unwilling to participate in VTC, or the defendant is otherwise unsuccessfully discharged from VTC, the case will be transferred back to the criminal division from which it originated. If the case was not assigned to a criminal division prior to transfer to VTC, the case will be assigned to a criminal division by the clerk in accordance with the applicable administrative order on assignment of cases and transferred to that division.
 - F. If accepted into VTC, the defendant is required to attend court hearings as ordered by the court, based on each defendant's needs. The defendant will participate in continued assessment and treatment and engage in discharge planning. This participation must include the voluntary and truthful provision of information to the court and all collaborating entities in the assessment and treatment process.

- G. Participation in the pretrial intervention program will subject the defendant to a coordinated strategy developed by a veterans' treatment intervention team.
 - 1. The coordinated strategy must be provided in writing to the defendant before the participant agrees to enter into the pretrial intervention program.
 - a. The coordinated strategy is modeled after the therapeutic jurisprudence principles and key components in section 397.334(4) and may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules.
 - b. The protocol of sanctions may include, but need not be limited to, placement in a treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. A defendant may refuse any sanction and as their alternative, resign or be revoked from VTC.
 - 2. The VTC team includes the Judge, Assistant State Attorney, Assistant Public Defender, Veterans Justice Outreach Specialist, Court Managers, VTC Coordinator, Mentor Coordinator, and other approved by the court.
- H. At the end of the pretrial intervention period, the court shall consider the recommendation of the treatment program and the recommendation of the state attorney as to disposition of the pending charges.
 - 1. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program.
 - a. If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the defendant to continue in education and treatment or return the charges to the criminal docket for prosecution.
 - b. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.
 - 2. Any defendant whose charges are dismissed after successful completion of the pretrial intervention program, if otherwise eligible, may have his or her arrest record of the dismissed charges expunged under section 943.0585.

II. POST-ADJUDICATORY PROGRAM:

- A. In order to participate in the post-adjudicatory program of the VTC, a defendant must meet the following criteria:
 - 1. Military veterans and servicemembers court programs - section 394.47891, Florida Statutes
 - a. The defendant is a veteran, as defined in section 1.01, including a veteran who is discharged or released under any condition; a servicemember, as defined in section 250.01; an individual who is

a current or former U.S. Department of Defense contractor; or an individual who is a current or former military member of a foreign allied country, and will so state by completing the Application for Veterans Treatment Court provided by the Office of the State Attorney, and VA Form 10-5345 Request for and Authorization to Release Medical and Health Information.

- b. The defendant suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem.
 - c. The defendant is charged with or convicted of a criminal offense.
2. Entry into the post-adjudicatory program
- a. Must be in accordance with chapter 921, Florida Statutes, in a manner that appropriately addresses the severity of the mental illness, traumatic brain injury, substance abuse disorder, or psychological problem through services tailored to the individual needs of the participant.
 - b. Must be based on the sentencing court's assessment of the defendant's criminal history, military service, substance abuse treatment needs, mental health treatment needs, amenability to the services of the program, the recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.
- B. In addition to any other conditions of probation or community control imposed, the court may impose a condition requiring the probationer or community controllee to participate in a treatment program capable of treating the probationer's or community controllee's mental illness, traumatic brain injury, substance abuse disorder, or psychological problem - section 948.21, Florida Statutes
- 1. The probationer or community controllee is a veteran, as defined in section 1.01, or servicemember, as defined in section 250.01, at the time the crime was committed.
 - a. If the crime is committed on or after October 1, 2019, the probationer or community controllee may include a veteran who is discharged or released under any condition; an individual who is a current or former United States Department of Defense contractor; or an individual who is a current or former military member of a foreign allied country.
 - 2. The probationer or community controllee suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem.

- C. The court shall give preference to treatment programs for which the probationer or community controllee is eligible through the United States Department of Veterans Affairs or the Florida Department of Veterans Affairs.
- D. As directed by section 948.06(2)(j) of the Florida Statutes, the court may order the offender to successfully complete a post-adjudicatory military veteran and servicemembers court program under section 394.47891 if
 - 1. The court finds, or the offender admits that the offender has violated his or her community control or probation.
 - 2. The underlying offense is a nonviolent felony.
 - 3. The court determines that the offender is amenable to the services of a military veterans and servicemembers court program.
 - 4. The court explains the purpose of the program to the offender and the offender agrees to participate.
 - 5. The offender is otherwise qualified to participate in a military veteran and servicemembers court program.
- E. The court shall determine, by written finding, whether the probationer or community controllee has successfully completed the post-adjudicatory program. All parties shall have notice and a fair opportunity to be heard before such determination.
 - 1. If the court finds that the probationer or community controllee has successfully completed the post-adjudicatory program, the court may consider withholding adjudication of guilt or early termination of probation.
 - 2. If the court finds that the probationer or community controllee has unsuccessfully completed the post-adjudicatory program, the court may order the probationer or community controllee to continue in education and treatment, which may include treatment programs offered by licensed service providers or jail-based treatment programs or return the charges to the criminal docket for prosecution.

DONE AND ORDERED this 12th day of August, 2019.

LISA DAVIDSON
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CHIEF JUDGE

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