

# **VETERANS TREATMENT COURT PROGRAM GUIDELINES 2021**

*Updated 10/6/21*

The Veterans Treatment Court Program (the “Program”) was established by the Florida Legislature to address the underlying causes of a veteran’s involvement with the judicial system through the use of specialized, multidisciplinary teams, and evidence-based treatment. The Program uses non-adversarial approaches to resolve the underlying causes.

For the purpose of this Program, the term:

1. “Defendant” means a veteran or servicemember who has been charged with or convicted of a criminal offense;
2. “Military sexual trauma” means a psychological trauma that results from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while a servicemember or veteran was serving on active duty, active duty for training, or inactive duty;
3. “Servicemember” means
  - a. A member of the active or reserve components of the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard;
  - b. A member of the Florida National Guard;
  - c. A current or former contractor for the United States Department of Defense; or
  - d. A current or former military member of a foreign allied country.
4. “Veteran” means a person who has served in the military.
5. “Veterans Treatment Court Program” means a specialized docket administered by a court for veterans and servicemembers as set forth in this section.

## **General Qualification and Initial Procedures**

1. The defendant must be a veteran or service member who has been charged with or convicted of a criminal offense.
2. The Program may adjudicate misdemeanors and felonies.
3. The chief judge and state attorney of the 17<sup>th</sup> Judicial Circuit have the exclusive authority to determine whether veterans who have received dishonorable or bad conduct discharges may participate in the Program.
4. A defendant who meets the eligibility requirements listed below may be admitted to the Program at any stage of a criminal proceeding. A defendant seeking to participate in the Program must submit an application to the state attorney. The state attorney will review each application and determine whether the defendant meets the eligibility requirements listed below.
5. While a defendant may be eligible to enter the court, he is not entitled to do so.
6. If the defendant is accepted by the state, his felonies are transferred to VF and misdemeanors to MVC.

## Eligibility Criteria

A defendant may participate in a veterans' treatment court program if he or she is approved by the state attorney, in consultation with the court, and meets the following criteria:

1. The defendant has a service-related mental health condition, service-related traumatic brain injury, service-related substance use disorder, or service-related psychological problem or has experienced military sexual trauma.

2. The defendant's participation in the veterans' treatment court program is in the interest of justice and of benefit to the defendant and the community.

In making the eligibility determination above, the state attorney, in consultation with the court, must consider:

1. The nature and circumstances of the offense charged.

2. The special characteristics or circumstances of the defendant and any victim or alleged victim, including any recommendation of the victim or alleged victim.

3. The defendant's criminal history and whether the defendant previously participated in a veterans' treatment court program or similar program.

4. Whether the defendant's needs exceed the treatment resources available to the veterans' treatment court program.

5. The impact on the community of the defendant's participation and treatment in the veterans' treatment court program.

6. Recommendations of any law enforcement agency involved in investigating or arresting the defendant.

7. **Restitution is required.** If a person or persons, including an insurance carrier, suffered monetary loss which can be determined without controversy as a direct result of the commission of the offense for which the applicant was arrested/charged, the applicant must be ready, willing and able to make full restitution to such person or persons, including insurance carriers, and such restitution shall be made a specific condition of the applicant's satisfactory completion of the program.

8. Any mitigating circumstances.

9. Any other circumstances reasonably related to the defendant's case.

10. The defendant's military record.

## **Felony Veterans Treatment Court Program**

Pursuant to F.S.A. § 948.08:

If accepted into the VTCP, a coordinated strategy for the defendant will be developed by a veterans' treatment intervention team. The coordinated strategy will be modeled after the therapeutic jurisprudence principles and key components in s. 397.334(4), with treatment specific to the needs of service members and veterans. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. 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. Any person whose charges are dismissed after successful completion of the pretrial veterans' treatment intervention program, if otherwise eligible, may have his or her arrest record to the dismissed charges expunged under s. 943.0585.

At the end of the pretrial intervention period, the state shall consider the recommendation of the treatment program with consultation with the court as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include treatment programs offered by licensed service providers or jail-based treatment programs, or order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

## Courtroom Procedures

1. The defendant must apply in writing to the SAO to enter the Veterans' Treatment Court (VTC).
2. The defendant may not be transferred to division VTC until arraignment.
3. The defendant must voluntarily agree to enter the program and waive his/her right to speedy trial.
4. Those offenses enumerated in F.S.A § 948.06(8) (c) are **NOT ELIGIBLE** for the program. They are the following:
  - Kidnapping or attempted kidnapping under s. [787.01](#), false imprisonment of a child under the age of 13 under s. [787.02](#)(3), or luring or enticing a child under s. [787.025](#)(2)(b) or (c).
  - Murder or attempted murder under s. [782.04](#), attempted felony murder under s. [782.051](#), or manslaughter under s. [782.07](#).
  - Aggravated battery or attempted aggravated battery under s. [784.045](#).
  - Sexual battery or attempted sexual battery under s. [794.011](#)(2), (3), (4), or (8)(b) or (c).
  - Lewd or lascivious battery or attempted lewd or lascivious battery under s. [800.04](#)(4), lewd or lascivious molestation under s. [800.04](#)(5)(b) or (c)2., lewd or lascivious conduct under s. [800.04](#)(6)(b), lewd or lascivious exhibition under s. [800.04](#)(7)(b), or lewd or lascivious exhibition on computer under s. [847.0135](#)(5)(b).
  - Robbery or attempted robbery under s. [812.13](#), carjacking or attempted carjacking under s. [812.133](#), or home invasion robbery or attempted home invasion robbery under s. [812.135](#).
  - Lewd or lascivious offense upon or in the presence of an elderly or disabled person or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person under s. [825.1025](#).
  - Sexual performance by a child or attempted sexual performance by a child under s. [827.071](#).
  - Computer pornography under s. [847.0135](#)(2) or (3), transmission of child pornography under s. [847.0137](#), or selling or buying of minors under s. [847.0145](#).
  - Poisoning food or water under s. [859.01](#).

- Abuse of a dead human body under s. [872.06](#).
- Any burglary offense or attempted burglary offense that is either a first degree felony or second degree felony under s. [810.02](#)(2) or (3).
- Arson or attempted arson under s. [806.01](#)(1).
- Aggravated assault under s. [784.021](#).
- Aggravated stalking under s. [784.048](#)(3), (4), (5), or (7).
- Aircraft piracy under s. [860.16](#).
- Unlawful throwing, placing, or discharging of a destructive device or bomb under s. [790.161](#)(2), (3), or (4).
- Treason under s. [876.32](#).
- Any offense committed in another jurisdiction which would be an offense listed in this paragraph if that offense had been committed in this state.

5. In addition to those ineligible charges, other offenses may also be deemed **NOT ELIGIBLE** by the State Attorney, in his discretion, based on the Eligibility Criteria (found above), pursuant to s. 394.47891(8). For instance, charges involving a death or serious bodily injury, or the discharge of a firearm may be deemed not eligible. Each application will be reviewed on a case by case basis.
6. Due to the fact the diversion cases will likely result in a dismissal, victims will be notified of the potential transfer so they have the opportunity to be heard. If there is restitution, the defendant will be required to repay it.
7. As the Veterans Administration as a matter of policy does not provide strong treatment options for veterans accused of sexually based offenses, defendants accused of sex crimes or who are on the sexual offender/sexual predator registry of any state or nation may have to rely on their personal resources to participate in the court through court approved community programs and services.
8. If the defendant was previously offered admission to a pretrial veterans' court program and rejected that offer, or previously participated in a veterans' program the SAO may deny admission to the VTC.

## **Felony Post Adjudicatory Program**

### **Courtroom Procedures**

1. A defendant must be eligible for probation or community control pursuant to F.S.A. § 948.15(1) to participate in the post adjudicatory program.
2. Those defendants who suffer from a military-related mental illness, traumatic brain injury, or psychological problem may file a motion in accordance with F.S.A. § 921.0026(d) which reads:

The defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction or for a physical disability, and the defendant is amenable to treatment.

3. If the SAO accepts defendant into the VTCP, the following criteria must be met before the defendant's case may be transferred to the program:
  - a. a plea of guilty or no contest is entered;
  - b. a waiver of the right to be sentenced by the division judge is entered on the record;
  - c. the defendant files a written motion for downward departure;
  - d. incorporated within the motion is a psychological evaluation outlining the substance abuse or mental disorder the defendant suffers from;
  - e. the defendant agrees that if the motion is denied the judge assigned to court program may sentence him/her

## **Misdemeanor Veterans Treatment Court Program**

If accepted into the VTCP, a coordinated strategy for the defendant will be developed by a veterans' treatment intervention team. The coordinated strategy will be modeled after the therapeutic jurisprudence principles and key components in s. 397.334(4), with treatment specific to the needs of service members and veterans. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. 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. Any person whose charges are dismissed after successful completion of the pretrial veterans' treatment intervention program, if otherwise eligible, may have his or her arrest record of the dismissed charges expunged under s. 943.0585.

1. The defendant may not be transferred to division MVC until arraignment.
2. The defendant must voluntarily agree to enter the program and waive his/her right to speedy trial
3. Due to the fact the diversion cases will likely result in a dismissal, victims will be notified of the potential transfer so they have the opportunity to be heard. If there is restitution, the defendant will be required to repay it.



## VTC PROGRAM DOCUMENT CHECKLIST

When submitting your application to SAO, please be sure to include the following:

- VTC Program application
- Waiver of Rights Form
- Copy of Probable Cause Affidavit
- Copy of Information
- Veteran or service member's DD214
- Any other documentation of military service

Each required document must be completed in its entirety (where applicable). Incomplete packets will be returned causing a delay in the processing of your application.

Once completed, these original documents should be emailed to the SAO at the below address:

[VeteransCourt@sao17.state.fl.us](mailto:VeteransCourt@sao17.state.fl.us)

**WAIVER OF RIGHTS**

As an applicant for entry into the Pretrial Intervention Program (PTI), I, \_\_\_\_\_  
(Defendant's Name)

do hereby affirm that I have consulted with my attorney, \_\_\_\_\_  
concerning this matter, and she/he has advised me of my Constitutional Rights, including, but not  
limited to my right to a speedy trial by jury and the right to remain silent regarding the facts and  
circumstances of the offense(s) with which I have been charged.

I understand that by entering the VTCP I am waiving my right to discovery for the time period my  
case is in VTCP.

I understand that my pretrial release status is subject to change while in the VTCP.

I understand that I will be subject to monitoring, that I will be required to attend treatment, that I  
may be subject to random drug/alcohol testing, that I may not contact the victim in my case, and  
that I agree to the release of my test results to program officials.

Understanding these rights, I do hereby voluntarily waive the right to a speedy trial of the  
offense(s) with which I am charged.

Witness my hand and seal this \_\_\_\_ day of \_\_\_\_\_ A.D, 20\_\_

\_\_\_\_\_  
**Defendant's Signature**

Sworn to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
**Notary Public, State of Florida.**  
**My Commission Expires:**

I hereby confirm that, as the attorney of record for \_\_\_\_\_, I have  
advised my client of his/her Constitutional Rights.

\_\_\_\_\_  
**Defense Attorney Signature**

\_\_\_\_\_  
Date