



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3417

Introduced 2/8/2024, by Sen. Javier L. Cervantes

SYNOPSIS AS INTRODUCED:

730 ILCS 167/25

730 ILCS 167/25.2 new

Amends the Veterans and Servicemembers Court Treatment Act. Provides that if a veteran with a service-connected disability is arrested for or charged with a criminal offense and there is prima facie evidence that the veteran was suffering from an episode of post-traumatic stress disorder or a related mental health condition during the commission of the offense, there is a rebuttable presumption that the veteran is eligible to participate in a veterans and servicemembers court program, and after the arrest or charge, the following procedures shall take place: (1) the veteran shall be evaluated and treated as soon as practicable by a qualified medical professional for post-traumatic stress disorder and any other mental health condition or disorder; and (2) the court shall order a screening and clinical needs assessment and risk assessment and a mental health and substance use disorder screening and assessment. Provides that if a veteran with a service-connected disability is charged for the first time with a criminal offense, including a felony, except certain offenses that would make him or her ineligible to participate in a veterans and servicemembers court program, and suffered from post-traumatic stress disorder or a related mental health condition during the commission of the offense, then, upon successful completion of the terms and conditions of a court program, the court shall dismiss the original charges against the veteran or successfully terminate the veteran's sentence or otherwise discharge the veteran from any further proceedings against the participant in the original prosecution. Establishes certain procedures to be followed when a combat veteran who is a disabled veteran has an episode of post-traumatic syndrome disorder and needs assistance.

LRB103 38577 RLC 68713 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Veterans and Servicemembers Court Treatment
5 Act is amended by changing Sections 25 and by adding Section
6 25.2 as follows:

7 (730 ILCS 167/25)

8 Sec. 25. Procedure.

9 (a) A screening and clinical needs assessment and risk
10 assessment of the defendant shall be performed as required by
11 the court's policies and procedures prior to the defendant's
12 admission into a veteran and servicemembers court. The
13 assessment shall be conducted through the VA, VAC, and/or the
14 IDVA to provide information on the defendant's veteran or
15 servicemember status.

16 Any risk assessment shall be performed using an assessment
17 tool approved by the Administrative Office of the Illinois
18 Courts and as required by the court's policies and procedures.

19 (b) A mental health and substance use disorder screening
20 and assessment of the defendant shall be performed by the VA,
21 VAC, or by the IDVA, or as otherwise outlined and as required
22 by the court's policies and procedures. The assessment shall
23 include, but is not limited to, assessments of substance use

1 and mental and behavioral health needs. The clinical needs
2 assessment shall be administered by a qualified professional
3 of the VA, VAC, or IDVA, or individuals who meet the Department
4 of Human Services substance use prevention and recovery rules
5 for professional staff under 77 Ill. Adm. Code 2060, or an
6 equivalent standard in any other state where treatment may
7 take place, and used to inform any clinical treatment plans.
8 Clinical treatment plans shall be developed, in accordance
9 with the Problem-Solving Court Standards and be based, in
10 part, upon the known availability of treatment resources
11 available to the veterans and servicemembers court. An
12 assessment need not be ordered if the court finds a valid
13 screening or assessment related to the present charge pending
14 against the defendant has been completed within the previous
15 60 days.

16 (c) The judge shall inform the defendant that if the
17 defendant fails to meet the conditions of the veterans and
18 servicemembers court program, eligibility to participate in
19 the program may be revoked and the defendant may be sentenced
20 or the prosecution continued as provided in the Unified Code
21 of Corrections for the crime charged.

22 (d) The defendant shall execute a written agreement with
23 the court as to the defendant's participation in the program
24 and shall agree to all of the terms and conditions of the
25 program, including but not limited to the possibility of
26 sanctions or incarceration for failing to abide or comply with

1 the terms of the program.

2 (e) In addition to any conditions authorized under the
3 Pretrial Services Act and Section 5-6-3 of the Unified Code of
4 Corrections, the court may order the participant to complete
5 mental health counseling or substance use disorder treatment
6 in an outpatient or residential treatment program and may
7 order the participant to comply with physicians'
8 recommendations regarding medications and all follow-up
9 treatment for any mental health diagnosis made by the
10 provider. Substance use disorder treatment programs must be
11 licensed by the Department of Human Services in accordance
12 with the Department of Human Services substance use prevention
13 and recovery rules, or an equivalent standard in any other
14 state where the treatment may take place, and use
15 evidence-based treatment. When referring participants to
16 mental health treatment programs, the court shall prioritize
17 providers certified as community mental health or behavioral
18 health centers if possible. The court shall consider the least
19 restrictive treatment option when ordering mental health or
20 substance use disorder treatment for participants and the
21 results of clinical and risk assessments in accordance with
22 the Problem-Solving Court Standards.

23 (e-5) The veterans and servicemembers court shall include
24 a regimen of graduated requirements, including individual and
25 group therapy, substance analysis testing, close monitoring by
26 the court, supervision of progress, restitution, educational

1 or vocational counseling as appropriate, and other
2 requirements necessary to fulfill the veterans and
3 servicemembers court program. Program phases, therapeutic
4 adjustments, incentives, and sanctions, including the use of
5 jail sanctions, shall be administered in accordance with
6 evidence-based practices and the Problem-Solving Court
7 Standards. If the participant needs treatment for an opioid
8 use disorder or dependence, the court may not prohibit the
9 participant from receiving medication-assisted treatment under
10 the care of a physician licensed in this State to practice
11 medicine in all of its branches. Veterans and servicemembers
12 court participants may not be required to refrain from using
13 medication-assisted treatment as a term or condition of
14 successful completion of the veteran and servicemembers court
15 program.

16 (e-10) Recognizing that individuals struggling with mental
17 health, substance use, and related co-occurring disorders have
18 often experienced trauma, veterans and servicemembers court
19 programs may include specialized service programs specifically
20 designed to address trauma. These specialized services may be
21 offered to individuals admitted to the veterans and
22 servicemembers court program. Judicial circuits establishing
23 these specialized programs shall partner with advocates,
24 survivors, and service providers in the development of the
25 programs. Trauma-informed services and programming shall be
26 operated in accordance with evidence-based best practices as

1 outlined by the Substance Abuse and Mental Health Service
2 Administration's National Center for Trauma-Informed Care
3 (SAMHSA).

4 (f) The Court may establish a mentorship program that
5 provides access and support to program participants by peer
6 recovery coaches. Courts shall be responsible to administer
7 the mentorship program with the support of volunteer veterans
8 and local veteran service organizations, including a VAC. Peer
9 recovery coaches shall be trained and certified by the Court
10 prior to being assigned to participants in the program.

11 (g) Veterans with a service-connected disability and
12 post-traumatic syndrome disorder.

13 (1) If a veteran with a service-connected disability
14 is arrested for or charged with a criminal offense and
15 there is prima facie evidence that the veteran was
16 suffering from an episode of post-traumatic stress
17 disorder or a related mental health condition during the
18 commission of the offense, there is a rebuttable
19 presumption that the veteran is eligible to participate in
20 a veterans and servicemembers court program, and after the
21 arrest or charge, the following procedures shall take
22 place:

23 (i) the veteran shall be evaluated and treated as
24 soon as practicable by a qualified medical
25 professional for post-traumatic stress disorder and
26 any other mental health condition or disorder; and

1 (ii) the court shall order all the screenings and
2 assessments described in subsections (a) and (b).

3 (2) If a veteran with a service-connected disability
4 is charged for the first time with a criminal offense,
5 including a felony, except for those offenses listed in
6 subsection (b) of Section 20 that would make him or her
7 ineligible to participate in a veterans and servicemembers
8 court program, and suffered from post-traumatic stress
9 disorder or a related mental health condition during the
10 commission of the offense, then, upon successful
11 completion of the terms and conditions of a court program,
12 the court shall dismiss the original charges against the
13 veteran or successfully terminate the veteran's sentence
14 or otherwise discharge the veteran from any further
15 proceedings against the participant in the original
16 prosecution.

17 (Source: P.A. 102-1041, eff. 6-2-22.)

18 (730 ILCS 167/25.2 new)

19 Sec. 25.2. Combat veteran who is disabled and has episode
20 of post-traumatic syndrome disorder and needs assistance.

21 (a) When a combat veteran who is a disabled veteran has an
22 episode of post-traumatic syndrome disorder and needs
23 assistance, the following shall occur:

24 (1) the veteran shall be taken to a VA hospital to get
25 evaluated;

1 (2) VA treatment shall be allowed in all cases
2 involving the disabled veteran who had an episode of
3 post-traumatic stress syndrome disorder;

4 (3) the veteran shall be allowed to participate in the
5 Cook County Veterans Treatment Court regardless of
6 criminal charges; and

7 (4) no felony charges shall be filed against first
8 time veteran offenders.

9 (b) This Section applies only to combat veterans who have
10 been diagnosed as disabled veterans.