



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Jeff Hobday

H.B. 409

132nd General Assembly
(As Introduced)

Reps. Butler and Perales, Retherford, Boccieri, Brenner, Goodman, Hambley, Henne, Johnson, Kent, Lanese, O'Brien, Rezabek, Riedel, Scherer, Seitz, Sheehy, R. Smith, Vitale, Young

BILL SUMMARY

- Authorizes common pleas, municipal, and county courts to establish specialized dockets known as veterans treatment courts.
- Allows defendants in criminal cases who meet certain conditions to participate in a veterans treatment court as a form of diversion instead of trial.
- Permits a court that does not operate a veterans treatment court to contract with one or more courts to transfer criminal defendants to participate in such a program and to pay the costs and fees associated with each case transferred.
- Requires defendants eligible to participate in a veterans treatment court to waive certain procedural rights and enter a guilty plea before participating.
- Requires dismissal of charges if a defendant satisfactorily completes the requirements of veterans treatment court, or conviction and sentencing if the defendant violates the terms and conditions of participation in the court.
- Allows for records of the criminal proceeding to be sealed if the defendant satisfactorily completes the requirements of a veterans treatment court and has been diagnosed with post-traumatic stress disorder or another mental illness.

CONTENT AND OPERATION

Veterans treatment court

Creation of specialized dockets

The bill authorizes any common pleas, municipal, or county court to establish a "veterans treatment court" (see "**Definitions**" for terms in quotation marks) by certification from the Ohio Supreme Court as a specialized docket program for veterans and active duty military members. If a court does not have a veterans treatment court available to eligible defendants, the court may contract with one or more courts that operate a veterans treatment court to transfer defendants to participate in such a program and to pay the costs and fees associated with each case transferred. The court in which the criminal complaint, indictment, or information was filed retains jurisdiction over the case for final disposition if the defendant does not successfully complete the program requirements of the veterans treatment court. The court also retains jurisdiction in connection with any offenses for which the defendant is not eligible to participate in a veterans treatment court.¹

Eligible defendants

The bill provides that a defendant charged with a criminal offense is eligible to participate in a veterans treatment court if the court in which the criminal complaint is filed finds both of the following:²

- (1) The defendant is a "veteran" or "active duty" member of the "Armed Forces."
- (2) The defendant is not charged with a first, second, or third degree felony and is not charged with a sex offense (meaning, any offense within R.C. Chapter 2907.).

The court may allow a defendant charged with a first, second, or third degree felony to participate in a veterans treatment court if the judge has reviewed the facts and circumstances of the case in consultation with the county probation department and a veterans justice outreach coordinator from the Veterans' Administration.³

¹ R.C. 1927.02.

² R.C. 1927.03(A).

³ R.C. 1927.03(B).



Conditions of participation

If the court finds a defendant eligible to participate in a veterans treatment court, the bill requires the defendant to do all of the following before entering the program:⁴

(1) Enter a guilty plea to the offenses charged;

(2) Waive, in writing and contingent upon successful completion of the program, the defendant's right to a speedy trial, the preliminary hearing, the time period within which the grand jury may consider an indictment against the accused, and arraignment, unless the hearing, indictment, or arraignment has already occurred;

(3) If the court transfers the defendant to another court for participation in a veterans treatment court, waive in writing any objection to the veteran treatment court's lack of jurisdiction over the defendant's case for the period of participation.

Once the defendant has complied with the requirements above, the court must stay all criminal proceedings and order the defendant to adhere to the terms and conditions of the veterans treatment court.⁵

Disposition and record sealing

Under the bill, if the defendant satisfactorily completes the requirements of the veterans treatment court, the bill requires the court to dismiss the proceedings against the defendant. Successful completion results in no adjudication of guilt or criminal conviction for purposes of any disqualification or disability imposed by law and upon conviction of a crime. If the defendant has been diagnosed with post-traumatic stress disorder or another mental illness, the court may order the sealing of records related to the proceedings.⁶ The bill defines "mental illness" as a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.⁷

If the defendant violates the terms and conditions of participation in the veterans treatment court, the court in which the criminal complaint, indictment, or information was filed must enter a finding of guilty and impose an appropriate sentence.⁸

⁴ R.C. 1927.04(A).

⁵ R.C. 1927.04(B).

⁶ R.C. 1927.04(C).

⁷ R.C. 1927.01(B).

⁸ R.C. 1927.04(D).



Definitions

The following definitions apply to the bill:

"Active duty" means full-time duty in the active military service of the United States or active duty pursuant to an executive order of the President of the United States, an act of Congress, or a proclamation of the governor. "Active duty" does not include active duty for training, initial active duty for training, or the period of time for which a person is absent from work for the purpose of a military fitness examination unless the period is contemporaneous with an active duty period.⁹

"Armed Forces" means the Armed Forces of the United States, including the Army, Navy, Air Force, Marine Corps, Coast Guard, or any reserve components of those forces; the national guard of any state; the Commissioned Corps of the U.S. Public Health Service; the Merchant Marine Service during wartime; such other service as may be designated by Congress; or the Ohio organized militia when engaged in full-time national guard duty for a period of more than 30 days.¹⁰

"Veteran" means a person who has served in the Armed Forces, was called to full-time active duty, and was honorably discharged or discharged under honorable conditions.¹¹

"Veterans treatment court" means a session of a common pleas, municipal, or county court that holds initial or final certification from the Supreme Court as a specialized docket program for veterans.¹²

HISTORY

ACTION	DATE
Introduced	11-07-17

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⁹ R.C. 1927.01(A), by reference to R.C. 5906.01, not in the bill.

¹⁰ R.C. 5903.01, not in the bill.

¹¹ R.C. 1927.01(D).

¹² R.C. 1927.01(E).

