

VETERAN TREATMENT COURT COORDINATION ACT OF
2019

OCTOBER 28, 2019.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. NADLER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 886]

The Committee on the Judiciary, to whom was referred the bill (H.R. 886) to direct the Attorney General to establish and carry out a Veteran Treatment Court Program, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

	Page
Purpose and Summary	1
Background and Need for the Legislation	2
Hearings	4
Committee Consideration	4
Committee Votes	4
Committee Oversight Findings	4
New Budget Authority and Tax Expenditures and Congressional Budget Of- fice Cost Estimate	4
Duplication of Federal Programs	4
Performance Goals and Objectives	5
Advisory on Earmarks	5
Section-by-Section Analysis	5

Purpose and Summary

H.R. 886, the “Veteran Treatment Court Coordination Act of 2019,” directs the Attorney General to permanently establish a grant-program office, called the Veteran Treatment Court Program (VTCP), to administer veterans court grants that the Department of Justice (DOJ) awards to state, local, and tribal governments. The VTCP would build upon the success of the hundreds of veterans courts programs in the United States by standardizing data reporting methods, serving as a repository for resources, providing train-

ing to veterans court administrators, and serving as the DOJ subject matter experts on veterans courts issues.

Background and Need for the Legislation

In 2008, New York State City Court Judge Robert T. Russell, Jr. established the first veterans court program in Buffalo, New York,¹ to leverage veteran-defendants' service backgrounds and improve justice outcomes.² Judge Russell focused his efforts on issues that disproportionately impact veterans, including substance abuse, homelessness, unemployment, and mental health concerns.³ Veterans courts divert justice-involved veterans charged with certain crimes from traditional misdemeanor and felony dockets to specialty courts that focus on rehabilitation of the defendant-veteran through the provision of individualized treatment. There are now over 500 veterans courts in the nation.⁴ Most veterans courts promote a coordinated response to address the issues that may underlie a veteran's alleged criminal behavior.⁵ Some veterans courts adopt restorative justice treatment models and encourage the veteran-defendant to promote rehabilitation among their peer participants.⁶ To qualify for most veterans courts, evidence of an underlying service-connected mental health condition is usually required.⁷ In a majority of veterans courts, the prosecutor, the judge, and defense counsel facilitate counseling or the provision of other services by the Department of Veterans Affairs (VA).

I. UNITED STATES DEPARTMENT OF VETERANS AFFAIRS SUPPORT TO VETERANS COURTS

Shortly after Judge Russell inaugurated the first veterans court, the VA began providing health support to veterans courts programs through its Veteran Justice Outreach (VJO) program.⁸ The support provided by the VA includes a consultant to the court called a VJO specialist, who serves on the veterans court treatment team, coordinates the provision of health care services, answers questions posed by the court, and assists the legal teams. The VJO specialist matches the defendant-veteran to programs that may assist the veteran on the road to recovery, which in the majority of cases starts with substance abuse or mental health treatment. The VA now offers a number of treatment options that are available to veterans court participants including, mentoring sessions, mental

¹ Dahlia Lithwick, *A Separate Peace: Why Veterans Deserve Special Courts*, NEWSWEEK, Feb. 22, 2010, at 20, <https://www.newsweek.com/why-veterans-deserve-special-courts75257>.

² Robert T. Russell, *Veterans Treatment Court: A Proactive Approach*, 35 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 357, 360–61 (2009), <https://www.american.edu/spa/jpo/initiatives/drug-court/upload/veterans-treatment-court-a-proactive-approach.pdf>.

³ *Id.* at 358–60.

⁴ U.S. DEP'T OF VETERANS AFFS., *Veterans Treatment Courts and Other Veteran-Focused Courts Served by VA Veterans Justice Outreach Specialists* (Aug. 2018), <https://www.va.gov/HOMELESS/docs/VJO/2018-Veterans-Treatment-Courts-FactSheet-508.pdf>.

⁵ NAT'L INST. OF CORRS., U.S. DEP'T OF JUST., *Veterans Treatment Courts: A Second Chance for Vets who have Lost their Way* 11 (May 2016), <https://s3.amazonaws.com/static.nicic.gov/Library/030018.pdf>.

⁶ Julie Marie Baldwin & Joseph Rukus, *Healing the Wounds: An Examination of Veterans Treatment Courts in the Context of Restorative Justice*, CRIM. JUST. POL'Y REV., Vol. 26(2) 183–207 (2015), <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.850.9303&rep=rep1&type=pdf>.

⁷ Joseph Darius Jaafari, *Special Courts for Veterans Languish*, THE MARSHALL PROJECT (Feb. 19, 2019 6:00 AM), <https://www.themarshallproject.org/2019/02/19/special-courts-for-veterans-languish>.

⁸ See U.S. DEP'T OF VETERANS AFF., *Veterans Treatment Courts*.

health counseling, substance abuse treatment, housing services, and vocational counseling.⁹ VJO specialists do not set guidelines for veterans court participation nor do they direct which defendants should be accepted into the program.

II. NEED FOR SPECIALIZED VETERANS SERVICES

One study reports that approximately nine percent of veterans who served in Iraq and Afghanistan have been arrested since returning home.¹⁰ The Bureau of Justice Statistics (BJS) estimates that approximately 181,500 veterans were incarcerated in state and federal prison and jail in 2011–2012.¹¹ Of those incarcerated veterans surveyed by BJS, 48% of veterans in prison and 55% of veterans in jail reported that they had been told by a mental health professional that they had a mental health disorder.¹² BJS found that the number of incarcerated veterans who had seen combat who reported mental health disorders was even higher—60% in prison and 67% in jail.

III. VETERANS COURT LIMITATIONS & EFFECTIVENESS

In 2017, a National Institute of Corrections survey of 79 veterans court programs found that a majority of programs had modest enrollment (usually only 1–20 concurrent participants); 76% of surveyed programs automatically exclude veterans charged with sex offenses; nearly 50% of veterans courts exclude veterans charged with violent offenses; and 45% of programs disqualify veterans previously convicted of violent offenses.¹³ By adopting policies that limit programs to nonviolent offenders, veterans courts may be excluding 64% of justice-involved veterans.¹⁴ Because veterans courts program adopt different standards and treatment programs, collecting uniform data, data reporting, and evaluating best practices is difficult.

Empirical studies show that veterans courts provide more effective means of rehabilitating justice-involved veterans than traditional criminal prosecutions. Although 20% of veterans court participants received jail sanctions during the program, only 14% experienced a new incarceration during an average of nearly one year in the program.¹⁵ This rate of recidivism is substantially less than the 23%–46% one-year recidivism rate found among non-veteran

⁹ K. J. Knudsen & S. Wingenfeld, *A Specialized Treatment Court for Veterans with Trauma Exposure: Implications for the Field*, *COMMUNITY MENTAL HEALTH J.* 52(2), 127–35 (2016), <http://dx.doi.org/10.1007/s10597-015-9845-9>.

¹⁰ Eric B. Elbogen et al., *Criminal Justice Involvement, Trauma, and Negative Affect in Iraq and Afghanistan War Era Veterans*, *J. CONSULT CLIN. PSYCHOL.* 80(6): 1097–1102 (Dec. 2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3514623/>.

¹¹ Jennifer Bronsom et al., *Veterans in Prison and Jail, 2011–12*, *BUR. OF JUST. STATS., U.S. DEP'T OF JUST.* (Dec. 2015), <https://www.bjs.gov/content/pub/pdf/vpi1112.pdf>.

¹² *Id.*

¹³ NAT'L INST. OF CORR., U.S. DEP'T OF JUST., *Veterans Treatment Courts: Identifying Key Findings from a Collaborative Survey* (Mar. 2017), <https://info.nicic.gov/jiv/sites/info.nicic.gov/jiv/files/Treatment-Court-Survey.pdf>.

¹⁴ Bronsom et al., at 4.

¹⁵ Jack Tsai et al., *A National Study of Veterans Treatment Court Participants: Who Benefits and Who Recidivates*, *ADM. POL'Y MENTAL HEALTH.* 45(2): 236–244 (Mar. 2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5776060/>.

prisoners.¹⁶ Most programs reported less than five dropouts in the 2017 calendar year.

Hearings

The Committee held no hearings on H.R. 886.

Committee Consideration

On October 16, 2019, the Committee met in open session and ordered the bill, H.R. 886, favorably reported, without amendment, by voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that no rollcall votes occurred during the Committee's consideration of H.R. 886.

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures and Congressional Budget Office Cost Estimate

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this Report from the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this Report contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

Duplication of Federal Programs

No provision of H.R. 886 establishes or reauthorizes a program of the Federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

¹⁶ M.R. Durose et al., *Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010*. BUR. OF JUST. STATS, U.S. DEP'T OF JUST (Apr. 2014), <http://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 886 would centralize administration of veterans court grants that DOJ awards to state, local, and tribal governments in a single program office. H.R. 886 would ease administration of currently authorized veterans court programs and facilitate the assessment of best practices.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 886 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec 1. Short title. Section 1 sets forth the short title of the bill as the “Veteran Treatment Court Coordination Act of 2019.”

Sec 2. Sense of Congress. Section 2 sets forth the sense of Congress that veterans treatment courts provide successful interventions for nonviolent justice-involved veterans.

Sec 3. Veteran Treatment Court Program. Section 3 directs the Attorney General to establish a Veteran Court Treatment Program that will serve as the Department’s focal point to provide grants and technical assistance to state court systems that have adopted a veterans court program or filed an intent to do so. This section also incorporates existing veterans court programs administered by the Attorney General into the new program and authorizes the Attorney General to promulgate regulations to carry out the newly established program.