

# Memorandum

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**To:** Robert W. Wilson, Cass County Administrator

**From:** Constance L. Cleveland, District Judge

**Date:** 4/30/2024

**Re:** Veterans Treatment Court Proposal

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I am requesting an opportunity to address the Cass County Commission to update the Commissioners regarding establishing a Veterans Treatment Court in the East Central Judicial District and request support for this initiative. You have asked me to clarify my comments regarding the practical and financial implications tied to establishing a Veterans Treatment Court specifically in Cass County.

## HISTORY:

A Veterans Treatment Court is an accountability court, using a combination of close supervision and rigorous treatment to hold participants accountable for their actions as well as support transition to be productive members of our community. The goals are to support offenders in successfully addressing underlying mental health and addiction issues, utilize the resources available to community members with prior military service, to restore our community, lower recidivism, and ultimately save taxpayer money for our county.

The Commission was apparently approached in 2014, 2017, and 2019 regarding establishing a Veterans Treatment Court. In each instance, there was not sufficient support with the Court and County to move forward.

What has happened since?

1. Changes in Federal Law<sup>1</sup>
2. Changes in State Law<sup>2</sup>
3. Changes in the Court<sup>3</sup>

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<sup>1</sup> <https://bja.ojp.gov/program/veterans-treatment-court-program>

<sup>2</sup> <https://legiscan.com/ND/text/SB2246/id/2351325>

<sup>3</sup> <https://www.inforum.com/news/fargo/fargo-adds-2-district-court-judges>

### **Changes in Federal Law**

In August of 2021, President Trump signed into law House Resolution 886 – which had been passed by the 116<sup>th</sup> Congress, - The Veterans Treatment Court Coordination Act of 2019 – which directed the Department of Justice to establish a Veterans Treatment Court Program to provide grants and technical assistance for state, local, and tribal governments to develop and maintain veterans treatment courts.

In so doing, Congress recognized: “Veterans treatment courts are a successful program aimed at helping veterans charged with non-violent crimes recent the help and benefits for which veterans are entitled.”<sup>4</sup>

### **Changes in State Law:**

Senate Bill 2246<sup>5</sup> was signed into law by Governor Burgum on April 1, 2021.<sup>6</sup> That bill made some changes to Drug Courts and also permitted the creation of Veterans Treatment Courts.

The North Dakota Supreme Court has modified Administrative Rule 60 to create a process for authorizing specialized docket courts.<sup>7</sup>

### **Changes in the Court:**

Since the last discussion, there have been significant changes in the Court. Four new judges have joined the bench by election or appointment since 2019, replacing retiring judges and two additional judge position were added and filled in September of 2023 to address high caseloads in the District.<sup>8</sup>

### **FAQ:**

#### **Q: What is the problem?**

**A:** Veterans face a variety of challenges after serving in the military, including increased risk for substance use disorders (SUDs), mental illness, suicide, chronic pain, trauma, and unstable housing. Veterans court diversion programs were developed to address the

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<sup>4</sup> The Veterans Treatment Court Coordination Act of 2019, Public Law No.116-153

<sup>5</sup> <https://ndlegis.gov/assembly/67-2021/documents/21-0603-02000.pdf>

<sup>6</sup> <https://www.kxnet.com/news/state-news/burgum-signs-31-new-bills-vetos-1/>

<sup>7</sup> <https://www.ndcourts.gov/legal-resources/rules/ndsuptadminr/60>

<sup>8</sup> <https://caselaw.findlaw.com/court/nd-supreme-court/2201227.html>

increasing numbers of veterans struggling with SUDs and co-occurring mental health disorders who were also facing legal issues and to reduce long term costs to communities of incarceration. Veterans treatment court offers treatment services for SUDs and/or mental health disorders rather than incarceration. These programs are modeled after existing drug or mental health treatment courts that were established to help people with SUDs and/or mental health disorders to receive short term or long term rehabilitation treatment rather than just jail time, which doesn't address the underlying issues that contributed to the illegal behavior.

**Q: Who Qualifies for Veterans Treatment Court?**

**A:** Court involved (meaning criminally charged) individuals with Class A Misdemeanor or above charges who have prior military service who have a drug/alcohol or mental health issues. <sup>9</sup>Participants need not be receiving VA benefits to participate in a Veterans treatment court. However, VJO (Veteran's Justice Office) staff can help link participants to VA benefits and services if the defendant is eligible for them. This can include disability benefits or pension.

**Q: Why should a Veterans Court be located here?**

**A:** Fargo is the location for the VA hospital and is a major resource for services for veterans. Fargo also has Guard units who have experienced deployments.

**Q: Are there sufficient numbers?**

**A:** Yes. Using the data received from Capt. Frobige at the Cass County Jail, and harvested from Odyssey, removing infractions and B Misdemeanors and all sex offenses (including possession of prohibited materials), and AA felonies.

Unique veterans charged with Class A Misdemeanor or above:

YEAR	JAIL	DESK	TOTAL
2024	13	0	13
2023	68	6	74
2022	53	17	70

**Q: Doesn't Cass already have a treatment court?**

**A:** Yes – Cass has two adult drug courts currently operating and they celebrated their 20<sup>th</sup> anniversary in September of 2023. These Drug courts provide the model and similar structure upon which to build. All stakeholders have the experience with these specialized docket drug courts, which are also treatment courts. Treatment courts do not create an additional track for offenders, but are a model for post adjudication treatment through intensive supervision by the court and probation with the support of others in the program

<sup>9</sup> <https://americanaddictioncenters.org/veterans/veteran-treatment-court>

with shared experience post adjudication. The goal for the offender and the community is to successfully transition the offender back to a sober, productive, law-abiding citizen.

**Q: How is a Veterans Court different?**

**A:** Differences: 1) Target Population; 2) Funding; 3) Treatment provider; 4) Mentorship component.

Veterans court is specifically designed to address the unique experiences of individuals who have prior military experience – thus prior service is the unique shared experience rather than usage. Veterans Courts promote sobriety, recovery, and stability through a coordinated response involving the traditional partners found in drug courts and mental health courts, as well as the Department of Veterans Affairs healthcare networks, the Veterans Benefits Administration, State Departments of Veterans Affairs, volunteer veteran mentors, and veterans family support organizations.

The two adult drug courts in Cass County are funded through the Department of Corrections, and the coordinators are hired through that funding stream. The current two adult drug courts follow a model incorporates a single primary treatment provider who maintains a contract with DOC as part of the drug court project. For the Veterans Treatment Court, the participants will not be assigned the same treatment provider and the treatment provider is not a part of the Treatment Court Team. Updates on progress and compliance are obtained through ROI (release of information) with the coordinator who reports to the Court.

While Drug Court participants are encouraged to obtain a sponsor as part of treatment, this is secured through their own actions, and many do not obtain a sponsor as it is not required. In a Veterans Treatment Court, a formal Mentor program is a part of the court, securing and training former military volunteers to serve in the role to support the Veterans as they navigate various resources and programs available to former military individuals. The shared experience is military, not court involved or prior drug/alcohol use.

**What would be the cost for the County?**

**A:** Two hours of time per week from the State’s Attorney.

**Q: Would this require additional space or a dedicated courtroom?**

**A:** No.

**Q: Are other stakeholders interested?**

**A:** Yes.

**Q: What is the timeline?**

**A:** In order to get a treatment court up and running in 2 years, the application to the Interdisciplinary Committee will need to be done this summer in order to get into the budget for the upcoming legislative session.

**Q: Will the planning stages require significant time and resources to develop the program?**

**A:** No – Grand Forks has provided their training manuals and other materials.

**Q: Are there other costs?**

**A:** Yes. Our local drug courts and the proposed Veterans Treatment Court follow models and training provided through AllRise.<sup>10</sup>

**Q: How will funding be secured?**

**A:** The Court system will hire the coordinator and mentor trainer. NDDOC will be responsible for the dedicated probation officer. Indigent Defense will be responsible for the defense attorney. All of these partners need to know whether this program will be pursued in order to get the additional hours into the state budgets.

I hope these materials provide the information you need. I have included hyperlinks to relevant information and would be happy to discuss this further.

Thank you.

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<sup>10</sup> <https://allrise.org>