



### **Policy for Veterans Treatment Court Diversion**

**General Policy:** The Veterans Treatment Court (VTC) is a collaborative effort between the Leavenworth Veterans Administration (VA) Medical Center, the District Court of Wyandotte County, Kansas, the Wyandotte County District Attorney, Wyandotte County Mental Health and the Wyandotte County Defense Bar. The VTC's purpose is to provide a treatment-based alternative to incarceration for Veterans. The VTC promotes public safety and reduces recidivism by addressing the unique challenges facing justice involving veterans. The VTC offers Veterans the chance to participate in intensive mental health and substance abuse treatment and services through the VA, as an alternative to receiving a "standard" sentence or diversion for their legal circumstances.

Veterans are not required to participate in the VTC and may choose to enter a standard diversion, a plea agreement to the charges, or have their case set for trial. VTC is a privilege, not a right, and may be denied to any applicant permitted by law.

The District Attorney and the VTC Judge have the final authority to approve or deny any VTC application. The District Attorney has appointed personnel to enforce these policies, as well as screen for eligibility and finalize conditions of the VTC Participant Contract.

Defendants shall have an attorney for the purpose of the VTC. Defendants shall reimburse the "court-appointed attorney's fund" when represented by court-appointed counsel.

VTC applications may be obtained from the Diversion Services Unit, or may be downloaded from the website: [www.wycoda.org/DA/Diversion.aspx](http://www.wycoda.org/DA/Diversion.aspx).

**Guidelines and eligibility:** In order to be eligible for the VTC:

- Qualifying Veterans must have served in the armed forces of the United States of America.
- Qualifying Veterans must be eligible to receive benefits from the United States Department of Veterans Affairs

Defendants charged with the following offenses are statutorily prohibited from receiving VTC, as set out in K.S.A. 22-2908(b):

- An off-grid crime
- A severity level 1, 2, or 3 felony
- A domestic violence offense, as defined K.S.A. 21-5111, and the defendant has participated in two or more diversions in the previous five year period upon complaints alleging a domestic violence offense.

At the discretion of the District Attorney and the VTC Judge, defendants charged with the following offenses may also be denied VTC:

- A case involving a weapon or firearm
- Sex offenses, except prostitution/patronizing a prostitute
- Person crimes
- Theft from an employer, charity or public agency
- A case involving financial loss over \$25,000

The following factors may also prohibit a defendant from the VTC:

- Charges pending in other municipal, state, or federal jurisdictions
- Any pre-trial motions filed with the Wyandotte County District Court prior to the final decision regarding VTC acceptance
- Failure to complete the application timely, wholly, falsifying or omitting any required information

Other factors may be taken into account in determining eligibility, as set out in K.S.A. 22-2908:

- The nature of the crime charged and the circumstances surrounding it
- Any special characteristics or circumstances of the defendant
- The probability that the defendant will cooperate with and benefit from VTC
- Whether the VTC is appropriate to the needs of the defendant
- The impact of the defendant's VTC acceptance upon the community
- Recommendations, if any, of the involved law enforcement agency
- Recommendations, if any, of the victim
- Provisions for restitution
- Any mitigating circumstances

**Procedure and costs:** An application for the VTC must be submitted to the Wyandotte County District Attorney's Office, along with the application fee. Applications may be submitted by mail, e-mail, or hand delivery. A defendant's application for the VTC will be rejected if not submitted within 90 days of the defendant's first appearance. Additionally, if the defendant has pursued substantive motions, trial, or preliminary hearing in a criminal case the application will be rejected.

Your case will be reviewed by the District Attorney for initial eligibility as well as the VA to determine what benefits are available to you. During the first 30 days after receipt of your application you must be assessed by the VA for substance abuse and/or mental health services and Wyandotte County Court Services for risk and needs.

Your application, substance abuse and/or mental health evaluation(s), risk needs assessment done by Wyandotte County Court Services along with eligibility information from the VA will be reviewed by the District Attorney's Office and the VTC Judge, who jointly will have sole discretion in selecting Veterans for the VTC.

You and your counsel will receive a letter or email notifying you whether you have been selected for the VTC. If you have been selected for the VTC, it will include a copy of the Participant Contract. Review the contract with your counsel. The Participant Contract will be signed in front of the Judge at your first VTC court date. The letter or email will include the date and time you are to appear for your first VTC court date. Do not be late.

The **application fees** shall be as follows:

- \$30 for misdemeanor and felony charges

The application fee is nonrefundable and shall be paid to the Clerk of the District Court before submitting the VTC application. Proof of payment is required before the Diversion Services Unit can process the application.

If approved for VTC, a supervision fee shall be paid to the Clerk of the District Court before signing the Participation Contract.

The **supervision fee** shall be as follows:

- \$60 for misdemeanor charges
- \$120 for felony charges

If approved for VTC, the defendant shall be required to pay the standard court costs to the Clerk of the District Court before signing the agreement.

The **court costs** shall be as follows:

- \$158 for misdemeanor charges
- \$193 for felony charges

Additional VTC costs may include, but are not limited to: fingerprinting, bond supervision, urinalysis testing, lab fees, witness fees, transportation costs, court appointed attorney's fees, and restitution. Any additional costs will be listed in the Participant Contract. All fees and costs associated with VTC are non-negotiable and shall not be waived. Standard court costs and fees are subject to change by District and/or Supreme Court Rule.

You will be required to disclose to the District Attorney, upon application, whether you are to party to any claim of bankruptcy.

All court appearances shall be attended during the process, unless otherwise directed.

**Terms and Conditions:** During your initial screening and treatment planning session or prior to your referral to the court you will be required to sign a release of information (ROI). This document allows the Kansas City VA Medical Center to inform the court of your progress in fulfilling your court requirements and services. Failure to sign a ROI will result in the inability to participate in the VTC. Privacy will be protected consistent with Federal Regulations and State Law.

If granted VTC, the Veteran enters a five phase program lasting a minimum of 12 to 18 months depending on the program. You must successfully complete each phase's requirements before transitioning to the next phase.

The Veteran will be assigned a Veteran Mentor, who will be a fellow Veteran to encourage, guide, and support the Veteran as he/she progresses through the five phases of VTC.

If granted VTC, standard Participation Contract conditions include:

- Veteran shall be subject to frequent UA testing to monitor abstinence, and allow treatment for relapses
- Veteran shall not contact victims, co-defendants, and witnesses, unless otherwise waived by the District Attorney
- Veteran shall pay fines, court costs, and other associated fees with a specified period set forth
- Veteran shall pay restitution (if applicable) in full in the payment structure designated
- Veteran shall be and/or make attempts to be gainfully employed and/or attend education
- Veteran shall maintain a current address on file with the District Attorney's Office and the Clerk of the District Court
- Veteran shall participate in VTC alcohol, drug treatment, rehabilitation, and mental health services

**Suspension of Criminal Proceedings:** Upon the Veteran signing the Participation Contract, the criminal proceedings shall be suspended.

The District Attorney may help resolve other pending criminal proceedings that affect the Veteran's legal status or eligibility.

When the Veteran successfully fulfills the terms and conditions of the Contract, the District Attorney shall have the criminal charges against the Veteran dismissed. If the Veteran has materially failed the terms of the Participation Contract, the District Attorney will notify the VTC Judge and move for revocation. The VTC Judge may resume criminal proceedings on the complaint, after a hearing on the Veteran's ability to fulfill Participation Contract terms.