

# VETERANS TREATMENT COURTS IN NORTH DAKOTA

## ABSTRACT

In March 2023, the first North Dakota Veterans Treatment Court (“VTC”) opened in the Northeast Central Judicial District in Grand Forks. The primary goals of VTCs are to reduce recidivism and foster a future-focused mindset for veterans who find themselves as defendants in the criminal justice system. Veterans have made significant sacrifices during their service to protect the rights and freedoms of all U.S. citizens. Unfortunately, many carry the lasting effects of their service in the form of mental health conditions, which, in some cases, lead to self-medication and subsequent involvement in criminal behavior. Generally, what these individuals need most is care and compassion to help them continue on a path of recovery. As participants in a VTC, veterans gain access to treatment, mentorship, and support that may not otherwise be available to them in traditional criminal courts.

While VTCs are not new, they are a recent forum in North Dakota. States with established VTCs have seen substantial benefits, including lower recidivism rates and reduced costs for taxpayers. Additionally, many veteran participants have achieved success in their recovery and reintegration into society. In its short existence, the VTC in Grand Forks County has already become a success story, providing rehabilitation rather than penalization by positively impacting the lives of veterans and their families.

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## I. BACKGROUND

### A. INTRODUCTION

In September 2023, the United States population included 1.29 million active-duty military personnel and 15.8 million veterans.<sup>1</sup> Approximately forty-one percent of Operation Enduring Freedom, Iraqi Freedom, and New Dawn Cohort-era veterans returning from war suffer from various mental health conditions—such as Post-Traumatic Stress Disorder (“PTSD”), major depression, and substance use issues—stemming from their time in service.<sup>2</sup> These illnesses are commonly referred to as “invisible wounds,” which can

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1. USAFacts Team, *How Many People Are in the US Military? A Demographic Overview*, USAFACTS (Feb. 21, 2024), <https://usafacts.org/articles/how-many-people-are-in-the-us-military-a-demographic-overview/> [<https://perma.cc/NBZ6-ZSCB>]; *Veterans Day 2024: November 11*, U.S. CENSUS BUREAU (Oct. 16, 2024), <https://www.census.gov/newsroom/facts-for-features/2024/veterans-day.html> [<https://perma.cc/8W3Y-GJUK>].

2. ALICIA L. CARRIQUIRY ET AL., NAT’L ACAD. OF SCIS., ENG’G, & MED., *EVALUATION OF THE DEPARTMENT OF VETERANS AFFAIRS MENTAL HEALTH SERVICES* 115, 160 (2018), <https://nap.nationalacademies.org/read/24915/chapter/8> [<https://perma.cc/FMV5-YGDE>] (“The five mental health screeners used in the study assessed possible recent or current symptoms of psychological distress, PTSD, major depression, alcohol dependence, and drug dependence.”).

be debilitating and often go undetected.<sup>3</sup> “Of those suffering, fewer than half seek treatment.”<sup>4</sup> Veterans not receiving treatment may gravitate toward various forms of self-medication upon reentering civilian life.<sup>5</sup> As a result, some of these individuals become afflicted with substance use issues and find themselves intertwined in the criminal justice system.<sup>6</sup> To promote rehabilitation rather than punishment, Judge Robert T. Russell of Buffalo, New York, created the first VTC in 2008.<sup>7</sup> With a ninety-eight percent success rate, the Buffalo VTC was the first court designed to provide justice-involved veterans a way to access treatment and continue on the road of rehabilitation in lieu of traditional criminal punishment.<sup>8</sup> Since the first VTC opened in 2008, there are now more than 600 VTCs nationwide with thirty-seven VTC locations within the State of New York.<sup>9</sup>

## B. OVERVIEW OF VETERANS TREATMENT COURTS

“Veterans Treatment Courts are designed to give an opportunity to improve the quality of a justice involved veteran’s life.”<sup>10</sup> The availability of VTCs differ from state to state as explained later in this section. Generally, the type and number of VTCs a state offers are based on the demand of the individual counties. In New York, many citizens and legal practitioners throughout the state saw veterans struggling with mental health issues resulting from their service, which prompted the creation of the rehabilitative forum.<sup>11</sup> The founders of the first VTC recognized the number of justice-involved veterans in the area and created a platform within the court system where veterans could gain access to the assistance they needed while

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3. See Honorable Robert T. Russell, *Veteran Treatment Courts*, 31 *TOURO L. REV.* 385, 386 (2015).

4. *Id.* (citing CTR. FOR MIL. HEALTH POL’Y RSCH., RAND CORP., *INVISIBLE WOUNDS OF WAR: PSYCHOLOGICAL AND COGNITIVE INJURIES, THEIR CONSEQUENCES, AND SERVICES TO ASSIST RECOVERY* 44 (Terri Tanielian & Lisa H. Jaycox eds., 2008)).

5. See *id.*

6. *Id.*

7. See Stacey-Rae Simcox, *Veterans Treatment Courts*, 7 *STETSON J. ADVOC. & L.* 108, 109 (2020).

8. See *id.*; see generally All Rise, *What is a Veterans Treatment Court?*, YOUTUBE (Dec. 1, 2015), <https://youtu.be/sxeAMKCav5I> [<https://perma.cc/TJA4-ZE5K>].

9. See *Veterans Treatment Court Locations*, N.Y. STATE UNIFIED CT. SYS., [https://ww2.nycourts.gov/courts/problem\\_solving/vet/courts.shtml](https://ww2.nycourts.gov/courts/problem_solving/vet/courts.shtml) (last visited Mar. 25, 2025); Di-marie Alicea-Lozada, *Veterans Treatment Courts Continue to Grow*, NAT’L CTR. FOR STATE CTS. (May 2, 2024), <https://cdm16501.contentdm.oclc.org/digital/collection/spets/id/596> [<https://perma.cc/LLF2-P28Q>].

10. *Veterans Treatment Court*, N.D. CTS., <https://www.ndcourts.gov/other-courts/veterans-treatment-court> [<https://perma.cc/9LFD-PM89>] (last visited Mar. 18, 2025).

11. See *Veterans Treatment Court*, N.Y. STATE UNIFIED CT. SYS., [https://ww2.nycourts.gov/courts/problem\\_solving/vet/index.shtml](https://ww2.nycourts.gov/courts/problem_solving/vet/index.shtml) (last visited Mar. 25, 2025).

ensuring public safety.<sup>12</sup> The key point of the VTCs in New York is to help veterans reintegrate “into civilian life and regain stability” by providing treatment and mentorship.<sup>13</sup>

In California, VTCs “target the root causes of veterans’ criminal behavior . . . to resolve criminal cases through treatment and support.”<sup>14</sup> The Judicial Branch of California recognized various national statistics in a 2015 video from All Rise explaining the growing need for VTCs.<sup>15</sup> First, “more than half of the 2.6 million who deployed to Iraq and Afghanistan return[ed] with mental health conditions related to their service.”<sup>16</sup> Of those veterans, “one in six struggle with addiction and one in five have PTSD.”<sup>17</sup> Lastly, “there [were] 700,000 vet[erans] in the criminal justice system.”<sup>18</sup>

VTCs in California serve as an alternative to incarceration by promoting treatment, accountability, and structure.<sup>19</sup> To participate, justice-involved veterans must meet certain eligibility requirements, such as prior military service, a criminal guilty plea, and an “agree[ment] to participate in a 15-18-month program.”<sup>20</sup> The veteran must also be actively experiencing mental health conditions particular to military service such as “[PTSD], Traumatic Brain Injuries (TBI), Military Sexual Trauma (MST), substance abuse[,] or other diagnosed disorders.”<sup>21</sup> The veteran may be eligible for participation in a California VTC if they satisfy all criteria and receive court approval.<sup>22</sup>

In 2023, 713 justice-involved veterans participated in Florida’s VTC program.<sup>23</sup> The state had a total of thirty-two VTCs in 2024.<sup>24</sup> Florida recognized that when combat-related mental health conditions go untreated, veterans “may find it even harder to return home, which can sometimes lead to criminal activity.”<sup>25</sup> Rather than incorporating VTCs into very generalized treatment courts—such as a typical drug court or mental health court as seen in South Dakota—Florida has limited participation in VTCs to “current or

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12. *See id.*

13. *See id.*

14. *Veterans Treatment Courts*, JUD. BRANCH OF CAL., <https://www.courts.ca.gov/11181.htm> [<https://perma.cc/EEG6-MWKW>] (last visited Mar. 18, 2025).

15. *Id.*

16. All Rise, *supra* note 8, at 0:17.

17. *Id.* at 0:25.

18. *See id.* at 0:38.

19. *See id.*

20. *Veterans Treatment Courts*, *supra* note 14.

21. *See id.*

22. *See id.*

23. *Veterans Courts*, FLA. CTS., <https://www.flcourts.gov/Resources-Services/Office-of-Problem-Solving-Courts/Veterans-Courts> (last modified Aug. 28, 2024).

24. *Id.*

25. *See id.*

former members of the military” to help facilitate a path to treatment for those battling particularized illnesses associated with combat military service.<sup>26</sup>

Conversely, South Dakota incorporates its two VTCs into the treatment courts in Minnehaha and Pennington counties.<sup>27</sup> “[T]hese courts—collectively known as Treatment Courts—include Drug Court, DUI Court, Veterans Court and Mental Health Court.”<sup>28</sup> The overarching goals of these courts are to promote recovery, reduce incarceration time and avoid recidivism.<sup>29</sup> To participate in the Minnehaha County VTC, an applicant must:

[be a]t least 18 [years old;] [have previously served] in the U.S. Armed Forces[; be f]acing felony or misdemeanor charges[; be qualified for participation] based on [a] risk/needs assessment[; p]ass [a] legal screen for entry into the Veterans Court program[; live] in Lincoln or Minnehaha County[; and be w]illing to participate in the Veterans Court.<sup>30</sup>

In Minnesota, VTCs “use a hybrid integration of Drug Court and Mental Health Court principles to serve military veterans, and sometimes active-duty personnel” and are offered based on the need and availability of counties and judicial districts.<sup>31</sup> For instance, in 2019 there were fourteen multi-county VTCs throughout Minnesota, of which three were district-wide treatment courts.<sup>32</sup> The Minnesota Fifth Judicial District Veterans Court permits

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26. See *id.*; see also *Treatment Courts*, S.D. UNIFIED JUD. SYS., [https://ujs.sd.gov/Circuit\\_Court/Problem\\_Solving\\_Courts/VeteransCourt.aspx](https://ujs.sd.gov/Circuit_Court/Problem_Solving_Courts/VeteransCourt.aspx) [<https://perma.cc/H3SK-SJYN>] (last visited Mar. 18, 2025).

27. See *Treatment Courts: Minnehaha County Drug, DUI, Veterans & Mental Health Court*, S.D. UNIFIED JUD. SYS., <https://ujs.sd.gov/uploads/drugcourt/MinnehahaVeteransCourtBrochure.pdf> [<https://perma.cc/N3M7-7QDZ>] (last visited Mar. 18, 2025); *Treatment Courts: Pennington County Drug, DUI, Veterans & Mental Health Court*, S.D. UNIFIED JUD. SYS., <https://ujs.sd.gov/uploads/drugcourt/PenningtonVeteransCourtBrochure.pdf> [<https://perma.cc/6AAR-XAY7>] (last visited Mar. 18, 2025).

28. *Treatment Courts*, *supra* note 26.

29. See *Treatment Courts: Minnehaha County Drug, DUI, Veterans & Mental Health Court*, *supra* note 27; *Treatment Courts: Pennington County Drug, DUI, Veterans & Mental Health Court*, *supra* note 27.

30. 2D JUD. CIR., VETERANS COURT: PARTICIPANT HANDBOOK 7 (2022) <https://ujs.sd.gov/uploads/drugcourt/MinnehahaVeteransCourtHandbook.pdf> [<https://perma.cc/6YHG-KHBJ>].

31. *Types of Courts: Veterans Treatment Court, Treatment Courts*, MINN. JUD. BRANCH, <https://www.mncourts.gov/Help-Topics/DrugCourts.aspx> [<https://perma.cc/Rf52-W2EZ>] (last visited Mar. 18, 2025) (VTCs “promote sobriety, recovery, and stability through a coordinated response that involves collaboration with the traditional partners found in Drug Courts and Mental Health Courts, as well as the Department of Veterans Affairs healthcare networks, Veterans Benefits Administration, State Departments of Veterans Affairs, volunteer veteran mentors, and organizations that support veterans and veterans’ families.”); MINN. STAT. ANN. § 609.1056(2)(h) (West 2024).

32. *Innovative Third Judicial District Veterans Treatment Court Pilot Made Permanent with Community Celebration*, MINN. JUD. BRANCH (Sept. 17, 2019), <https://mncourts.gov/About-The-Courts/NewsAndAnnouncements/ItemDetail.aspx?id=1802#:~:text=The%2011%2Dcounty%20Court%20is,Chase%20in%20>

“[d]efendants who voluntarily agree to participate” in the VTC to enter “pre-adjudication (acceptance after charging, but prior to a plea or finding of guilt) or post sentence (after plea or finding).”<sup>33</sup> To participate in the Fifth Judicial District Veterans Court, a justice-involved veteran must satisfy the following eligibility criteria:

[m]ust have served in the U.S. Military[; n]on-disciplinary discharge from the military[; a]dult –18 years of age or over[; r]esident of one of the participating counties (team may waive residency requirement)[; c]harged with a misdemeanor, gross misdemeanor or felony level offense (non-presumptive commit)[; e]xperiencing a treatable behavioral, mental health, or substance abuse problem substantially related to the offense[; c]onsent of the prosecuting attorney for referral to the Veterans Court[; and d]efendant is willing to participate.<sup>34</sup>

## II. VETERANS TREATMENT COURTS IN NORTH DAKOTA

In May 2023, the first VTC opened in the Northeast Central Judicial District in Grand Forks as a post-sentence option for justice-involved veterans.<sup>35</sup> North Dakota modeled its first VTC after New York, Minnesota, and Montana’s programs.<sup>36</sup> VTCs in Montana are known as “Courts Assisting Military Offenders” or “CAMO.”<sup>37</sup> These courts are geared toward “restor[ing] honor by enhancing community safety through early identification of military veteran offenders and diversion into a therapeutic problem-solving veterans only court docket.”<sup>38</sup> Montana recognized that the cause for many veterans’ criminal justice involvement is due in large part to “[t]he lasting effects of

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Fillmore%20County [<https://perma.cc/E85U-XQ75>] (“The Third Judicial District Veterans Treatment Court is the fourteenth multi-county treatment court and the third district-wide treatment court in Minnesota.”).

33. *Multi-County Veterans Court*, MINN. JUD. BRANCH 5TH JUD. DIST., [https://www.mncourts.gov/mncourtsgov/media/fifth\\_district/Treatment%20Courts/Veteran-Court-Brochure.pdf](https://www.mncourts.gov/mncourtsgov/media/fifth_district/Treatment%20Courts/Veteran-Court-Brochure.pdf) [<https://perma.cc/4TL4-6YTS>] (last visited Mar. 18, 2025) (“Serving the [c]ounties of: Blue Earth, Brown, Cottonwood, Faribault, Jackson, Lincoln, Lyon, Martin, Murray, Nicollet, Nobles, Pipestone, Rock & Watonwan.”).

34. *See id.*

35. *See* Sav Kelly, *North Dakota’s First Veterans Treatment Court Opens in Grand Forks*, GRAND FORKS HERALD (May 13, 2023, 7:54 AM), <https://www.grandforksherald.com/news/local/north-dakotas-first-veterans-treatment-court-opens-in-grand-forks> [<https://perma.cc/3SAU-LR9N>].

36. Interview with Kim Higgs, Veterans Treatment Ct. Coordinator, Ne. Cent. Jud. Dist., in Grand Forks, N.D. (Nov. 25, 2024).

37. *See CAMO Courts Assisting Military Offenders*, YELLOWSTONE CNTY.: VETERANS TREATMENT CT., [https://archive.legmt.gov/content/Committees/Interim/2023-2024/Law-and-Justice/Meetings/february-2024/CAMO\\_pamphlet.pdf](https://archive.legmt.gov/content/Committees/Interim/2023-2024/Law-and-Justice/Meetings/february-2024/CAMO_pamphlet.pdf) [<https://perma.cc/FA4B-WKB9>] (last visited Mar. 18, 2025).

38. *See id.*

military service[, which] have shown to be a significant contributing factor in substance abuse, mental health disorders, [and] increased legal problems.”<sup>39</sup> Thus, Montana created CAMO to serve as “the proper balance between treating veterans and” maintaining public security.<sup>40</sup> To participate in Montana’s CAMO courts, veteran participants must have prior military experience or “[b]e an immediate family member of a military veteran,” and “[b]e involved in the criminal justice system (misdemeanor or felony).”<sup>41</sup> Furthermore, optional participant criteria includes “a diagnosable substance abuse and/or mental health disorder,” “the need for Case Management services,” and “a need for any of the following classes: Criminal Thinking, PTSD, Seeking Safety, Life Skills, Parenting, [and/or] Motivational Enhancement Therapy.”<sup>42</sup>

The founders structured the first VTC in Grand Forks on the benefits seen in Montana’s CAMO to rehabilitate veterans in a non-adversarial setting.<sup>43</sup> The founders recognized the importance of specialized care in CAMO courts by primarily permitting veterans who suffer from PTSD and substance abuse to participate in the Northeast Central Judicial District’s VTC.<sup>44</sup>

The justice-involved veteran must satisfy various criteria to be eligible for participation in the Northeast Central Judicial District’s VTC.<sup>45</sup> The first criterion provides that the justice-involved veteran must be “either a current or former member” of the military.<sup>46</sup> If the participant is a current member, they must be available to participate in the program for a minimum of eighteen months.<sup>47</sup> If the participant is a former member, they must be eligible for benefits through the VA.<sup>48</sup> The remaining criteria provide that the veteran:

must . . . currently resid[e] in the Grand Forks or Nelson County[; m]ust be determined to need treatment for either mental health and/or chemical dependency / substance use[; c]annot have any other criminal charges or holds that will interfere with treatment[; m]ust be determined to be high risk [or] high need via appropriate assessment tools[; m]ust agree to participate in and be subject to the

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39. *See id.*

40. *See id.*

41. *Id.*

42. *See id.*

43. Interview with Kim Higgs, *supra* note 36.

44. *Id.*

45. *See* NE. CENT. JUD. DIST., N.D. CTS., VETERANS TREATMENT COURT POLICY AND PROCEDURES MANUAL 15 (2025), <https://www.ndcourts.gov/Media/Default/other-courts/veterans-treatment-court/VTC-Policy-and-Procedures-Manual.pdf> [<https://perma.cc/F2ER-3ARM>].

46. *Id.*

47. *See id.*

48. *Id.*

expectations, regulations, and sanctions of VTC[; m]ust be amenable to treatment and motivated to participate in the program[; and m]ust agree to sign a limited release of information to allow communication between the VTC [and other necessary organizations for the duration of the program.]<sup>49</sup>

These organizations include the VA, medical professionals, treatment providers, and the Department of Corrections and Rehabilitation Probation Officer.<sup>50</sup>

All veteran participants will receive various forms of treatment to assist in their recovery journeys.<sup>51</sup> Substance abuse and mental health treatments are available through the Fargo VA and the Northeast Human Service Center (“NHSC”) depending on availability, eligibility, and therapeutic need of the individual.<sup>52</sup> The Fargo VA uses a veteran-focused approach to mental health care.<sup>53</sup> Substance abuse and mental health treatment through the Fargo VA can be accomplished via an inpatient or outpatient approach based on the veteran’s individual needs.<sup>54</sup>

The NHSC’s mission is “[t]o provide quality, efficient, and effective human services, which improve the lives of people.”<sup>55</sup> This is accomplished by “provid[ing] behavioral health services to residents of Grand Forks, Nelson, Pembina and Walsh counties.”<sup>56</sup> Veteran participants may receive treatment at NHSC through the VTC if they meet the requisite medical and level of care necessities for an individual to attain recovery.<sup>57</sup>

According to VTC Coordinator, Kim Higgs, the benefits of participating in the VTC include court-facilitated access to medical care and substance abuse treatment, general guidance, and mentorship all structured within a six phase approach.<sup>58</sup> The phases are as follows: (1) “Clinical Stabilization and Engagement”; (2) “Psychosocial Stabilization/Commitment”; (3) “Commitment/Prosocial Habilitation”; (4) “Devotion/Planning for a Successful Life”;

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49. *Id.* at 15-16.

50. *Id.*

51. *See id.* at 24-25.

52. *See id.*

53. *Mental Health Care*, U.S. DEP’T OF VETERANS AFFS.: VA FARGO HEALTH CARE, <https://www.va.gov/fargo-health-care/health-services/mental-health-care/> [<https://perma.cc/4Z5Z-3Q23>] (last updated Mar. 18, 2024).

54. *Id.*

55. *Northeast Human Service Center: Region IV*, N.D. HEALTH & HUM. SERVS., <https://www.hhs.nd.gov/HSC/region-4> [<https://perma.cc/NN59-28FP>] (last visited Mar. 19, 2025).

56. *See id.*

57. *See* NE. CENT. JUD. DIST., *supra* note 45, at 24-25.

58. Interview with Kim Higgs, *supra* note 36.



(5) “Honor/Continuing Care”; (6) “Post Graduation Phase.”<sup>59</sup> The importance of this approach is to provide veteran participants with a roadmap for success.<sup>60</sup> Each phase requires participants to:

[a]ttend court weekly or as ordered by the judge[; a]s part of recovery capital, work with VTC probation, counselor or medical professional, in the development of a wellness/treatment plan[; s]how up for all appointments with medical professionals and others[; a]ctively participate in treatment[; c]omply with treatment as part of recovery capital[; s]ubmit to weekly drug tests unless the judge has authorized you to stop[; c]omply with supervision and meet with the VTC probation officer or the probation officer assigned to their case) as instructed or as ordered by the judge[; c]omply with their weekly signed court order[; c]reate and keep a journal related to thoughts and feelings about recovery such as attending support meetings[; c]omplete learning assignments such as essays on healthy relationships, managing frustration, or developing respect[; n]o driving unless licensed[; r]eceive random home visits from the VTC probation officer or designated individual[; o]btain/maintain stable housing[; and r]emain law abiding.<sup>61</sup>

Once a veteran participant passes a phase, they are provided a certificate and a “dog tag” as motivation to continue their journey to recovery.<sup>62</sup> Upon successful completion of the VTC, the participants are rewarded with a graduation ceremony, and each participant will experience some level of reduction or dismissal of their charges or a reduction in their sentence.<sup>63</sup>

“Phase 1: Clinical Stabilization and Engagement” is where veteran participants can focus on stability as a foundation for their success in the program.<sup>64</sup> Participants accomplish this “by showing up, being honest, following

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59. *Northeast Central Judicial District Veterans Wellness Court*, N.D. CTS., <https://www.ndcourts.gov/Media/Default/other-courts/veterans-treatment-court/Participant-Brochure.pdf> [<https://perma.cc/F949-PJJ9>] (last updated Mar. 3, 2025).

60. Interview with Kim Higgs, *supra* note 36.

61. NE. CENT. JUD. DIST., *supra* note 45, at 34-35.

62. Interview with Kim Higgs, *supra* note 36.

63. *Northeast Central Judicial District Veterans Wellness Court*, *supra* note 59; see N.D. CENT. CODE § 39-08-01.5(2) (2023) (“Upon successful completion of a drug court program, mental health court program, or veterans treatment docket, a defendant convicted of a felony under section 39-08-01 and sentenced to drug court, mental health court, or veterans treatment docket is deemed to have been convicted of a misdemeanor.”), § 39-08-01.5(3) (“If a defendant convicted of a misdemeanor under section 39-08-01 is sentenced to drug court, mental health court, or veterans treatment docket and successfully completes a drug court program, mental health court, or veterans treatment docket, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.1.”).

64. See NE. CENT. JUD. DIST., *supra* note 45, at 35.

the program expectations, and trying their best.”<sup>65</sup> This phase requires participants to:

develop[] an outline showing how they intend to work towards sobriety with the VTC probation officer[;] . . . develop[] an environment where there is no drug, alcohol, or mood-altering substances in the home or their possession[;] . . . develop[] a housing plan, if applicable, with the VTC probation officer or designated individual[;] . . . begin work on the application for a driver’s license when eligible or address license reinstatement if applicable[; c]omplete learning assignment on Medical and Transportation Needs[;] . . . [c]omplete incentive worksheet in the forms area of [the] manual[;] . . . [and ensure p]ersonal statement on VTC application satisfies Phase One goals.<sup>66</sup>

Participants must also create a journal related to various treatment topics and maintain regular entries throughout the duration of the program.<sup>67</sup> Participants may advance to the next phase if they:

[a]re in Phase 1 for at least 14 days and/or exhibit clinical stability as determined by treatment providers[; h]ave at least 14 consecutive days from their program clean date immediately before they advance to Phase 2[; h]ave at least 14 days without a major violation immediately before they advance to Phase 2[; h]ave had an intake appointment with their treatment provider[; h]ave identified a primary care physician and scheduled an appointment if it is part of the treatment plan[; h]ave worked with the VTC probation officer or designated individual to develop a housing plan, if applicable[; h]ave read the entire VTC participant handbook[; s]how honesty[; c]ompleted the Application and goals for Phase 2 and turned in the application for review by the VTC coordinator[; and t]he judge has approved their advancement to Phase 2.<sup>68</sup>

“Phase 2: Psychosocial Stabilization and Commitment” is meant to challenge the participants to refrain from criminal behavior and maintain healthy progress, develop motivation, insight, and skills to continue their rehabilitation journeys.<sup>69</sup> Participants are to develop plans and budgets with the VTC probation officer to ensure they complete community service, if any, and

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65. *See id.*

66. *Id.*

67. *See id.* at 34.

68. *Id.* at 35-36.

69. *See id.* at 36.

“repay any restitution, court-ordered [costs], and probation fees.”<sup>70</sup> Additionally, participants will identify a number of weekly social or support groups in the community that they can attend during Phase 3.<sup>71</sup> Advancement to the next phase is proper when participants:

[a]re in Phase 2 for at least 30 days and/or have exhibited clinical stability as determined by treatment providers[; h]ave at least 30 consecutive days from their program clean date immediately before they advance to Phase 3[; h]ave at least 30 days without a major VTC violation immediately before they advance to Phase 3[; a]s part of recovery capital, have developed a budget and financial plan with the VTC probation officer, including a plan to repay any restitution, court-ordered financial obligations, and probation fees[; a]s part of recovery capital, have developed a written plan (minimum one paragraph) with the VTC probation officer to complete any court-ordered community service work[; h]ave developed a written plan (minimum one paragraph) to fulfill the Phase 3 requirement of attending at least two weekly pro-social activities and/or recovery support groups[; c]ompleted phase two’s goals[; h]ave completed the Application and goals for Phase 3 and turned in the application for review by the court coordinator[; and t]he judge has approved advancement to Phase 3.<sup>72</sup>

“Phase 3: Commitment/Prosocial Habilitation” provides participants with time to “concentrate on rebuilding positive social support and coping skills.”<sup>73</sup> Participants will accomplish this by attending a minimum of two weekly social or support meetings, implementing the plans and budgets they created in Phase 2, and by finding and maintaining VTC team approved employment, housing, training, and education.<sup>74</sup> Veteran participants may advance to Phase 4 only when they:

[a]re in Phase 3 for at least 45 days and/or exhibit clinical stability as determined by treatment providers[; h]ave at least 45 consecutive days from their program clean date immediately before they advance to Phase 4[; h]ave at least 45 days without a major violation immediately before they advance to Phase 4[; i]f applicable, have begun making payments toward any restitution, court-ordered financial obligations, and probation fees per their financial plan[; i]f

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70. *See id.*

71. *Id.*

72. *Id.* at 36-37.

73. *Id.* at 37.

74. *See id.*

applicable, have completed at least eight hours of any court-ordered community service work[; h]ave written at least two paragraphs about (1) how they fulfilled the requirement of attending two weekly pro-social activities and/or recovery support groups, and (2) how they plan to fulfill this requirement in Phase 4[; h]ave completed a recovery plan of action[; c]ompleted phase three's goals[; h]ave completed their application and goals for Phase 4 and have turned in the application to the court coordinator[; and t]he judge has approved advancement to Phase 4.<sup>75</sup>

The final phases signal to participants that they will be learning to reimplement structure in their lives while they are simultaneously provided time to understand accountability.<sup>76</sup> "Phase 4 is for participants to develop meaningful change by practicing the skills they have learned."<sup>77</sup> This can be accomplished through the participant's continuation of the practices learned in the previous phases.<sup>78</sup> Advancement to the next phase can be accomplished when participants:

[a]re in Phase 4 for at least 90 days[; h]ave at least 60 consecutive days from their program clean date immediately before they advance to Phase 5[; h]ave at least 60 days without a major violation immediately before they advance to Phase 5[; h]ave written at least two paragraphs about (1) how they fulfilled the requirement of attending two weekly pro-social activities and/or recovery support groups, and (2) how they plan to fulfill this requirement in Phase 5[; h]ave written at least one paragraph identifying their vocational, employment, or educational goals with a plan to achieve those goals[; r]emain in compliance with treatment and supervision[; r]emain law abiding[; h]ave started working on the Criminal Thinking Worksheets[; c]ompleted phase four's goals[; h]ave completed the application and goals for Phase 5 and turned in the application to the court coordinator for review[; and t]he judge has approved advancement to Phase 5.<sup>79</sup>

"The goal of Phase 5 is to complete a participant's transition into an honest, law-abiding, and healthy member of the community."<sup>80</sup> Participants can accomplish this by:

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75. *Id.*

76. Interview with Kim Higgs, *supra* note 36.

77. NE. CENT. JUD. DIST., *supra* note 45, at 38.

78. *See id.*

79. *Id.*

80. *Id.* at 39.

[m]aintain[ing] recovery network through attendance at, at least, two weekly pro-social activities and/or recovery support groups[; i]f applicable, repay[ing] all remaining restitution, court-ordered financial obligations, and probation fees[; i]f applicable, complet[ing] all remaining court-ordered community service work[; d]evelop[ing] their aftercare, regression/relapse, and wellness plan paragraphs with the VTC treatment provider or a VTC team member[; c]omplet[ing] Criminal Thinking Worksheets and discuss[ing] them with their counselor or case manager[; m]aintain[ing] employment and court-approved housing[; h]av[ing] completed an application for a driver's license when eligible or address license reinstatement if applicable[; and c]omplet[ing] learning assignment on recovery groups/network/activities reinforcing recovery.<sup>81</sup>

The following are the criteria a participant must meet before graduating from VTC:

in Phase 5 for at least 90 days[; h]ave at least 12 months in the VTC program[; h]ave at least 90 consecutive days from their program clean date immediately before they graduate[; h]ave at least 90 days without a major violation immediately before they graduate[; h]ave repaid all remaining balances to the Clerk of Courts and Probation Department[; c]ompleted Criminal Thinking Worksheets and have discussed them with their case manager or counselor[; i]f applicable, have completed any court-ordered community service work[; h]ave written their aftercare, regression/relapse prevention, and wellness plan (minimum three paragraphs)[; a]re fully engaged in treatment and recovery community[; h]ave maintained full-time employment or a combination of employment/education[; h]ave stable and safe housing[; h]ave written an essay for graduation related to topics such as time management, responsibility, the importance of honesty, triggers, why recovery support is important, or one that is related to recovery behavior[; h]ave complete phase five's goals[; h]ave completed the Graduation Application and turned in the application for review by the court coordinator[; h]ave completed the exit interview[; and t]he judge has approved their graduation.<sup>82</sup>

“Phase Six – Post-Graduation Phase” is the final phase that is designed to aid graduated participants in “maintaining their recovery/sobriety and law-abiding behavior without the accountability of regular court appearances.”<sup>83</sup>

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81. *Id.* at 39-40.

82. *Id.* at 40.

83. *Id.* at 41.

Specifically, this phase requires participants to follow-up with the court, “[c]ontinue with pro-socialization activities,” maintain routines, and “[c]ontinue to have a self-directed life.”<sup>84</sup>

Veteran participants are also provided mentorship and guidance during their involvement in the VTC through the VALOR Values of the program.<sup>85</sup> VTC Mentors are involved to further the Veteran Mentor Mission: “To ensure that every participating veteran receives the services they require by helping them navigate the system and act as a mentor, advocate, and ally.”<sup>86</sup> The mentors, who must be veterans themselves, must meet certain criteria, such as being an upstanding member of society and commitment to serving as a mentor within the program for at least six months.<sup>87</sup> Additionally, the veteran mentors must abide by the VALOR Values, which include veterans helping one another, instilling accountability, and providing leadership to ongoing recovery.<sup>88</sup> More importantly, mentorship provides veteran participants with a sense of camaraderie similar to their time in service.<sup>89</sup> This form of guidance facilitates continuous achievement and recovery.<sup>90</sup>

### III. SUPPORT FOR VETERANS TREATMENT COURTS IN NORTH DAKOTA

For several years, members of the North Dakota Bar observed the need for VTCs within the state.<sup>91</sup> The need was apparent due to the large percentage of veteran residents.<sup>92</sup> “As of 2020, the veteran population for Grand Forks County is 5,500, or 9.3% of Grand Forks’ population. Nelson County’s veteran population is 250 or 8.3% of the county’s population.”<sup>93</sup> Many veterans experience various mental health conditions resulting from military

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84. *Id.*

85. *See VTC Mentor Prospectus*, NE. CENT. JUD. DIST., N.D. CTS., <https://www.ndcourts.gov/Media/Default/other-courts/veterans-treatment-court/Mentor-brochure.pdf> [<https://perma.cc/UM6P-ZA6S>] (last updated Mar. 3, 2025); Interview with Kim Higgs, *supra* note 36.

86. *See VTC Mentor Prospectus*, *supra* note 85.

87. *See id.* (“VALOR – Values: Veteran helping another veteran to meet the demands of the court and civilian life. Instill Accountability to assist in restoring integrity to the veteran. Leading to Ongoing Recovery by working as a team and showing honor in all you do.”).

88. *See id.*

89. Interview with Kim Higgs, *supra* note 36.

90. *Id.*

91. *Id.*

92. *Providing a Structured Environment for Justice-Involved Veterans*, N.D. CTS., <https://www.ndcourts.gov/Media/Default/other-courts/veterans-treatment-court/Vet-Court-Brochure.pdf> [<https://perma.cc/YU9S-EGHM>] (last visited Mar. 18, 2025).

93. *Id.*

service.<sup>94</sup> For example, national data provides that approximately seven percent of veterans will experience PTSD at some point in their life, and “[m]ore than 2 of 10 Veterans with PTSD” additionally suffer from substance use disorders.<sup>95</sup> PTSD, along with combat exposure, traumatic brain injuries, substance use disorders, and military sexual trauma are just a few examples of service-related risk factors that increase a veteran’s probability of becoming justice-involved.<sup>96</sup>

A new approach was needed to provide the appropriate remedy rather than the traditional punishments exercised in the criminal justice system. Although the general community may be unaware of the VTC’s existence, others recognized the need by fighting to establish the first VTC in North Dakota.<sup>97</sup> Of these advocates, Judge Donald Hager of the Northeast Central Judicial District, along with other VTC proponents, petitioned for the creation of the state’s first VTC.<sup>98</sup>

Advocates worked to implement a VTC in the Northeast Central Judicial District.<sup>99</sup> Legal practitioners, along with various veteran organizations, were dedicated to making VTCs in North Dakota a reality and accepted the challenges associated with opening a new form of treatment court.<sup>100</sup> The program description—“Veteran Accountability Leading to Ongoing Recovery”—clearly emphasizes the need for this new treatment forum.<sup>101</sup> Veterans

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94. *Id.*; see also Pet. for the Creation of a Veterans Treatment Ct. (Specialized Docket) Under N.D. Sup. Ct. Admin. Rule 60 at 2, In re Creation of a Specialized Docket for the Ne. Cent. Jud. Dist. Of N.D. (N.D. July 31, 2020), <https://www.ndcourts.gov/Media/Default/other-courts/veterans-treatment-court/VTC-Petition.pdf> [<https://perma.cc/5K5C-EDA7>] (“The State of North Dakota has a significant U.S. Military Veteran population within its borders (46,507 persons or 12.4% of the population) and specifically, within the Northeast Central Judicial District (NECJD) there are 5,010 veteran residents.”).

95. See *How Common is PTSD in Veterans?*, U.S. DEP’T OF VETERANS AFFS., [https://www.ptsd.va.gov/understand/common/common\\_veterans.asp](https://www.ptsd.va.gov/understand/common/common_veterans.asp) [<https://perma.cc/692Z-8KH9>] (last updated Jan. 10, 2025); *PTSD and Substance Abuse in Veterans*, U.S. DEP’T OF VETERANS AFFS., [https://www.ptsd.va.gov/understand/related/substance\\_abuse\\_vet.asp](https://www.ptsd.va.gov/understand/related/substance_abuse_vet.asp) [<https://perma.cc/9JL4-E38B>] (last updated Jan. 9, 2025).

96. See Ugur Orak, *From Service to Sentencing: Unraveling Risk Factors for Criminal Justice Involvement Among U.S. Veterans*, COUNCIL ON CRIM. JUST. (Oct. 2023), <https://counciloncj.org/from-service-to-sentencing-unraveling-risk-factors-for-criminal-justice-involvement-among-u-s-veterans/> [<https://perma.cc/Q2A9-92WB>].

97. Interview with Kim Higgs, *supra* note 36.

98. Letter from Presiding Judge Donald Hager et al., Ne. Cent. Jud. Dist., to Hon. Jerod Tufte, Just. & Chair, Interdisc. Specialized Docket Comm., N.D. Sup. Ct. (June 19, 2020), <https://www.ndcourts.gov/Media/Default/other-courts/veterans-treatment-court/Hager-Letter-July-2020.pdf> [<https://perma.cc/Z4AW-FTW2>].

99. Interview with Kim Higgs, *supra* note 36.

100. *Id.*; Letter from Presiding Judge Donald Hager et al., *supra* note 98 (“We are dedicated to working collaboratively with North Dakota veterans that may have an increased likelihood of contact/interaction [sic] the criminal justice system due to unmet mental health and potentially, addiction needs.”).

101. NE. CENT. JUD. DIST., *supra* note 45, at 2.

are accustomed to camaraderie and fellowship, aspects that normal treatment courts do not implement.<sup>102</sup> “The VTC program emphasizes courage, commitment, integrity, devotion, and honor”; all are qualities the founders had hoped the veteran participants would find meaningful as well.<sup>103</sup> Support for VTCs continue as there are efforts to establish additional VTCs in North Dakota.<sup>104</sup>

#### IV. IMPACT IN NORTH DAKOTA

Since the VTC in Grand Forks is new, the statistical impact of the VTC’s effectiveness on the criminal justice system is still unknown.<sup>105</sup> For a general estimation of its future effectiveness, it is best to look at the impacts other states have experienced within their criminal justice systems since the inception of their VTCs.<sup>106</sup> Other states, such as New York, have shown that the non-adversarial approach within a judicial forum keeps veteran participants engaged in their recovery, lowers rates of recidivism and taxpayer expense.<sup>107</sup> According to the New York Health Foundation, referencing a study conducted by researchers Jack Tsai, Andrea Finlay, Bessie Flatley, Wesley J. Kaspro, and Sean Clark (“Jack Tsai et al.”), about fourteen percent of VTC participants in 2018 recidivated, compared to forty-six percent “of civilians who recidivate within one year after incarceration.”<sup>108</sup>

Many have analyzed the benefits of promoting more treatment courts and rehabilitative methods for drug offenders rather than incarceration.<sup>109</sup> Specifically, “Drug Courts produce cost savings ranging from \$4,000 to \$12,000 per [offender].”<sup>110</sup> In addition to lower rates of recidivism, Tsai et al. noted that “[a] national study of over 22,000 veterans in the [Veterans

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102. Interview with Kim Higgs, *supra* note 36.

103. NE. CENT. JUD. DIST., *supra* note 45, at 6.

104. See Kevin Wallevand, *Veterans Treatment Court Helps Troubled Vets Get Care and Concern Instead of Punishment*, INFORUM (July 22, 2024, 6:51 PM), <https://www.inforum.com/news/fargo/veterans-treatment-court-helps-troubled-vets-get-care-and-concern-instead-of-punishment> [<https://perma.cc/B8SV-NQW4>] (“If the Legislature and the North Dakota Supreme Court approve, Fargo could see a veterans treatment court in 2025.”).

105. Interview with Kim Higgs, *supra* note 36.

106. *See id.*

107. *See generally* All Rise, *supra* note 8.

108. NYHealth, *Veterans Treatment Courts in New York State: Past and Future*, N.Y. HEALTH FOUND. (June 27, 2024), <https://nyhealthfoundation.org/resource/veterans-treatment-courts-new-york-state-past-and-future/#brief-history-of-veterans-treatment-courts-in-new-york-state> [<https://perma.cc/EE73-U7J6>] (citing Jack Tsai et al., *A National Study of Veterans Treatment Court Participants: Who Benefits and Who Recidivates*, 45 ADMIN. & POL’Y IN MENTAL HEALTH & MENTAL HEALTH SERVS. RSCH. 236, 236-44 (2018)).

109. *See generally* All Rise, *supra* note 8.

110. *Drug Court Facts*, 4TH JUD. CIR. CTS. OF FLA., <https://www.jud4.org/Court-Programs/Drug-Mental-Health-and-Veterans-Treatment-Courts/Drug-Court-Programs/Drug-Court-Facts.aspx> [<https://perma.cc/N8TE-BBSQ>] (last visited Mar. 19, 2025).



Affair's Veterans Justice Outreach] program found that VTC participants had better housing and employment outcomes as compared to other criminal justice-involved veterans.”<sup>111</sup>

V. WHY NORTH DAKOTA SHOULD OPEN MORE  
VETERANS TREATMENT COURTS THROUGHOUT THE  
STATE

Many have expressed hope to see more VTCs open throughout the state.<sup>112</sup> The initial goal was for Grand Forks, Fargo, Bismarck, and Williston to have VTCs to service their respective regions.<sup>113</sup> Currently, if exceptional circumstances exist where a veteran participant cannot attend the VTC in Grand Forks in person, they are permitted to attend via Zoom.<sup>114</sup> Based on the positive outcomes observed in the Grand Forks VTC, many hope more VTCs will open across the state.<sup>115</sup> Specifically, “[i]f the Legislature and the North Dakota Supreme Court approve, Fargo could see a veterans treatment court in 2025.”<sup>116</sup> This section will argue that North Dakota should open additional VTCs throughout the state to serve more justice-involved veterans who would benefit from participation in a specialized treatment court. Veterans have sacrificed to protect the rights of all Americans. Many found themselves involved in the criminal justice system due to self-treatment of the wounds they suffer from their service.<sup>117</sup> Now is the time for society to recognize the sacrifices made by all veterans by providing specialized treatment to veterans who are justice-involved.

A. VETERANS TREATMENT COURTS LOWER TAXPAYER COSTS

The costs associated with supporting an imprisoned person vary among states.<sup>118</sup> The average annual cost to support an imprisoned person in Minnesota is \$80,470, Texas is \$31,484, Nebraska is \$88,209, and Massachusetts is \$307,468.<sup>119</sup> In 2015, an average of 11,000 veterans were participants in VTCs.<sup>120</sup> Had those veterans been incarcerated, this would have cost

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111. Tsai et al., *supra* note 108, at 237.

112. Wallevand, *supra* note 104.

113. Interview with Kim Higgs, *supra* note 36.

114. *Id.*

115. Wallevand, *supra* note 106.

116. *Id.*

117. See Russel, *supra* note 3, at 386.

118. See USAFacts Team, *How Much do States Spend on Prisoners?*, USA FACTS, <https://usafacts.org/articles/how-much-do-states-spend-on-prisons/> [<https://perma.cc/WW3G-FWTS>] (last updated Apr. 17, 2024).

119. See *id.*

120. See All Rise, *supra* note 8, at 1:33.

taxpayers nearly \$248,000,000.<sup>121</sup> Therefore, VTCs are an economical choice for taxpayers compared to alternatives like incarceration.

#### B. VETERANS TREATMENT COURTS LOWER RATES OF RECIDIVISM

Although VTC participants who were previously incarcerated tend to experience future incarceration, justice-involved veterans who have not been previously incarcerated and who participate in VTCs are less likely to become re-offenders.<sup>122</sup> According to Tsai et al.'s national study, "[a]lthough 20% of VTC participants received jail sanctions during the program, only 14% experienced a new incarceration during an average of nearly 1 year in the program, which is lower than the 23–46% 1-year recidivism rate found among U.S. prisoners."<sup>123</sup> This is in large part due to the veteran specific treatment services provided through VTCs.<sup>124</sup> Specialized treatment minimizes the various risk factors, such as PTSD, traumatic brain injuries, substance use disorders, and other service-related traumas, that make veterans more susceptible to criminal involvement.<sup>125</sup> Thus, it is probably better for public safety and the safety of justice-involved veterans to participate in VTCs.

#### C. VETERANS TREATMENT COURTS HOLISTICALLY IMPROVE JUSTICE-INVOLVED VETERAN'S LIVES

According to the Tsai et al. study, by avoiding incarceration, VTC participants tend to experience increased access to VA benefits and housing.<sup>126</sup> "[O]ne small study of 86 veterans enrolled in VTCs showed that VTC participants experienced improvements in mental health, overall functioning, and social connectedness over 12 months."<sup>127</sup> Further, the Tsai et al. study showed the following benefits after an average of eleven months in a VTC program:

58% of participants were in their own housing at program exit (compared to 48% at program admission); 28% were employed at program exit (compared to 27% at admission); 50% were receiving VA benefits at program exit (compared to 38% at admission); and 9% were receiving non-VA benefits compared to 18% at admission.<sup>128</sup>

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121. *Id.* at 1:39.

122. *See id.*; *see also* Tsai et al., *supra* note 108, at 241.

123. Tsai et al., *supra* note 108, at 241.

124. All Rise, *supra* note 8, at 1:04.

125. *See* Orak, *supra* note 96.

126. Tsai et al., *supra* note 108, at 242.

127. *Id.* at 237.

128. *Id.* at 239.

Therefore, VTCs bring holistic benefits to veterans beyond simply lowering recidivism rates and taxpayer expenses.

## VI. CONCLUSION

VTCs offer an exciting prospect to North Dakota's criminal justice system. Specialized treatment courts provide a legal forum for justice-involved veterans to receive the help they need to recover. Through mentorship, veterans can discuss common experiences with other veterans. Additionally, post-sentence treatment courts help save taxpayer funds by avoiding incarceration expenses. Furthermore, justice-involved individuals who participate in post-sentence treatment courts are less likely to relapse than their incarcerated counterparts. These effects have a positive influence on North Dakota's veterans in the state's criminal justice system.

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\* 2026 J.D. Candidate at the University of North Dakota School of Law. First, I would like to thank the NORTH DAKOTA LAW REVIEW for giving me the opportunity to publish this piece. I would also like to express my gratitude to Director Elizabeth Behrens for her guidance throughout this process. Lastly, I am deeply grateful to my friends and family—especially my parents—for their everlasting support and encouragement.