

180.4 Sec. 11. [609.1056] MILITARY VETERANS; CRIMES COMMITTED BECAUSE
 180.5 OF CONDITIONS RESULTING FROM SERVICE; DISCHARGE AND DISMISSAL.

180.6 Subdivision 1. Definitions. As used in this section, the following terms have the meanings
 180.7 given:

180.8 (1) "applicable condition" means sexual trauma, traumatic brain injury, posttraumatic
 180.9 stress disorder, substance abuse, or a mental health condition;

180.10 (2) "eligible offense" means any misdemeanor or gross misdemeanor, and any felony
 180.11 that is ranked at severity level 7 or lower or D7 or lower on the Sentencing Guidelines grid;

180.12 (3) "pretrial diversion" means the decision of a prosecutor to refer a defendant to a
 180.13 diversion program on condition that the criminal charges against the defendant shall be
 180.14 dismissed after a specified period of time, or the case shall not be charged, if the defendant
 180.15 successfully completes the program of treatment recommended by the United States
 180.16 Department of Veterans Affairs or a local, state, federal, or private nonprofit treatment
 180.17 program; and

180.18 (4) "veterans treatment court program" means a program that has the following essential
 180.19 characteristics:

180.20 (i) the integration of services in the processing of cases in the judicial system;

180.21 (ii) the use of a nonadversarial approach involving prosecutors and defense attorneys to
 180.22 promote public safety and to protect the due process rights of program participants;

180.23 (iii) early identification and prompt placement of eligible participants in the program;

180.24 (iv) access to a continuum of alcohol, controlled substance, mental health, and other
 180.25 related treatment and rehabilitative services;

180.26 (v) careful monitoring of treatment and services provided to program participants;

180.27 (vi) a coordinated strategy to govern program responses to participants' compliance;

180.28 (vii) ongoing judicial interaction with program participants;

180.29 (viii) monitoring and evaluation of program goals and effectiveness;

180.30 (ix) continuing interdisciplinary education to promote effective program planning,
 180.31 implementation, and operations;

181.1 (x) development of partnerships with public agencies and community organizations,
 181.2 including the United States Department of Veterans Affairs; and

181.3 (xi) inclusion of a participant's family members who agree to be involved in the treatment
 181.4 and services provided to the participant under the program.

181.5 Subd. 2. Deferred prosecution. (a) The court shall defer prosecution for an eligible
 181.6 offense committed by a defendant who was, or currently is, a member of the United States

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152.32 (b) "Veterans treatment court program" means a program that has the following essential
 152.33 characteristics:

153.1 (1) the integration of services in the processing of cases in the judicial system;

153.2 (2) the use of a nonadversarial approach involving prosecutors and defense attorneys to
 153.3 promote public safety and to protect the due process rights of program participants;

153.4 (3) early identification and prompt placement of eligible participants in the program;

153.5 (4) access to a continuum of alcohol, controlled substance, mental health, and other
 153.6 related treatment and rehabilitative services;

153.7 (5) careful monitoring of treatment and services provided to program participants;

153.8 (6) a coordinated strategy to govern program responses to participants' compliance;

153.9 (7) ongoing judicial interaction with program participants;

153.10 (8) monitoring and evaluation of program goals and effectiveness;

153.11 (9) continuing interdisciplinary education to promote effective program planning,
 153.12 implementation, and operations;

153.13 (10) development of partnerships with public agencies and community organizations,
 153.14 including the United States Department of Veterans Affairs; and

153.15 (11) inclusion of a participant's family members who agree to be involved in the treatment
 153.16 and services provided to the participant under the program.

181.7 military as provided in this subdivision. The court shall do this at the request of the defendant
 181.8 upon a finding of guilty after trial or upon a guilty plea.

181.9 (b) A defendant who requests to be sentenced under this subdivision shall release or
 181.10 authorize access to military service reports and records relating to the alleged applicable
 181.11 condition. The court must file the records as confidential and designate that they remain
 181.12 sealed, except as provided in this paragraph. In addition, the court may request, through
 181.13 existing resources, an assessment of the defendant. The defendant, through existing records
 181.14 or licensed professional evaluation, shall establish the diagnosis of the condition, that it was
 181.15 caused by military service, and that the offense was committed as a result of the condition.
 181.16 The court, on its own motion or the prosecutor's motion, with notice to defense counsel,
 181.17 may order the defendant to furnish to the court for in-camera review or to the prosecutor
 181.18 copies of all medical and military service reports and records previously or subsequently
 181.19 made concerning the defendant's condition and its connection to service.

181.20 (c) Based on the record, the court shall determine whether, by clear and convincing
 181.21 evidence: (1) the defendant suffered from an applicable condition at the time of the offense;
 181.22 (2) the applicable condition was caused by service in the United States military; and (3) the
 181.23 offense was committed as a result of the applicable condition. Within 15 days of the court's
 181.24 determination, either party may file a challenge to the determination and demand a hearing
 181.25 on the defendant's eligibility under this subdivision.

181.26 (d) If the court makes the determination described in paragraph (c), the court shall,
 181.27 without entering a judgment of guilty, defer further proceedings and place the defendant
 181.28 on probation upon such reasonable conditions as it may require and for a period not to
 181.29 exceed the maximum period provided by law. A court may extend a defendant's term of
 181.30 probation pursuant to section 609.135, subdivision 2, paragraphs (g) and (h). Conditions
 181.31 ordered by the court must include treatment, services, rehabilitation, and education sufficient
 181.32 so that if completed, the defendant would be eligible for discharge and dismissal under
 181.33 subdivision 3. In addition, the court shall order that the defendant undergo a chemical use
 181.34 assessment that includes a recommended level of care for the defendant in accordance with
 182.1 the criteria contained in rules adopted by the commissioner of human services under section
 182.2 254A.03, subdivision 3.

182.3 (e) If the court determines that the defendant is eligible for a deferred sentence but the
 182.4 defendant has previously received one for a felony offense under this subdivision, the court
 182.5 may, but is not required to, impose a deferred sentence. If the court does not impose a
 182.6 deferred sentence, the court may sentence the defendant as otherwise provided in law,
 182.7 including as provided in subdivision 4.

149.5 (b) A defendant who requests to be sentenced under this section shall release or authorize
 149.6 access to military service reports and records relating to the alleged conditions stemming
 149.7 from service in the United States military. The records shall be filed as confidential and
 149.8 remain sealed, except as provided for in this paragraph. The defendant, through existing
 149.9 records or licensed professional evaluation, shall establish the diagnosis of the condition
 149.10 and its connection to military service. The court, on the prosecutor's motion with notice to
 149.11 defense counsel, may order the defendant to furnish to the court for in camera review or to
 149.12 the prosecutor copies of all medical and military service reports and records previously or
 149.13 subsequently made concerning the defendant's condition and its connection to service. Based
 149.14 on the record, the court shall make findings on whether, by clear and convincing evidence,
 149.15 the defendant suffers from a diagnosable condition and whether that condition stems from
 149.16 service in the United States military. Within 15 days of the court's findings, either party
 149.17 may file a challenge to the findings and demand a hearing on the defendant's eligibility
 149.18 under this section.

149.25 (c) If the court concludes that a defendant who entered a plea of guilty to a criminal
 149.26 offense is a person described in this subdivision or the parties stipulate to eligibility, and if
 149.27 the defendant is otherwise eligible for probation, the court shall, upon the defendant entering
 149.28 a plea of guilty, without entering a judgment of guilty and with the consent of the defendant,
 149.29 prosecutor, and victim, defer further proceedings and place the defendant on probation upon
 149.30 such reasonable conditions as it may require and for a period not to exceed the maximum
 149.31 sentence provided for the violation unless extended by the court to complete treatment as
 149.32 per section 609.135, subdivision 2, paragraph (h). If the veteran has previously received a
 149.33 stay of adjudication for a felony offense under this section, the court may in its discretion
 149.34 sentence consistent with this section or deny the use of this section on subsequent felony
 149.35 offenses. If the court denies a stay of adjudication on this basis, the court may sentence
 150.1 pursuant to the guidelines, application or waiver of statutory mandatory minimums, or a
 150.2 departure pursuant to subdivision 2, paragraph (d).

- 182.8 (f) Upon violation of a condition of probation, the court may enter an adjudication of
 182.9 guilt and proceed as otherwise provided in law, including as provided in subdivision 4.
- 182.10 (g) As a condition of probation, the court may order the defendant to attend a local, state,
 182.11 federal, or private nonprofit treatment program for a period not to exceed the maximum
 182.12 period for which the defendant could have been incarcerated.
- 182.13 (h) The court, when issuing an order under this subdivision that a defendant attend an
 182.14 established treatment program, shall give preference to a treatment program that has a history
 182.15 of successfully treating veterans who suffer from applicable conditions caused by military
 182.16 service, including but not limited to programs operated by the United States Department of
 182.17 Defense or Veterans Affairs.
- 182.18 (i) The court and any assigned treatment program shall collaborate with, when available,
 182.19 the county veterans service officer and the United States Department of Veterans Affairs
 182.20 to maximize benefits and services provided to the defendant.
- 182.21 (j) If available in the county or judicial district having jurisdiction over the case, the
 182.22 defendant may be supervised by a veterans treatment court program under subdivision 5.
 182.23 If there is a veterans treatment court that meets the requirements of subdivision 5 in the
 182.24 county in which the defendant resides or works, supervision of the defendant may be
 182.25 transferred to that county or judicial district veterans treatment court program. Upon the
 182.26 defendant's successful or unsuccessful completion of the program, the veterans treatment
 182.27 court program shall communicate this information to the court of original jurisdiction for
 182.28 further action.
- 182.29 (k) Sentencing pursuant to this subdivision waives any right to administrative review
 182.30 pursuant to section 169A.53, subdivision 1, or judicial review pursuant to section 169A.53,
 182.31 subdivision 2, for a license revocation or cancellation imposed pursuant to section 169A.52,
 182.32 and also waives any right to administrative review pursuant to section 171.177, subdivision
 182.33 10, or judicial review pursuant to section 171.177, subdivision 11, for a license revocation
 183.1 or cancellation imposed pursuant to section 171.177, if that license revocation or cancellation
 183.2 is the result of the same incident that is being sentenced.

- 150.3 (d) Upon violation of a condition of the probation, the court may enter an adjudication
 150.4 of guilt and proceed as otherwise provided by law, including sentencing pursuant to the
 150.5 guidelines, application or waiver of statutory mandatory minimums, or a departure pursuant
 150.6 to subdivision 2, paragraph (d).
- 150.7 (e) As a condition of probation, the court may order the defendant to attend a local, state,
 150.8 federal, or private nonprofit treatment program for a period not to exceed that period which
 150.9 the defendant would have served in state prison or county jail, provided the court determines
 150.10 that an appropriate treatment program exists. Pursuant to section 609.135, subdivision 2,
 150.11 paragraph (h), the court may extend an offender's probation if the offender has not completed
 150.12 court-ordered treatment.
- 150.13 (f) The court, in making an order under this section to order a defendant to attend an
 150.14 established treatment program, shall give preference to a treatment program that has a history
 150.15 of successfully treating veterans who suffer from sexual trauma, traumatic brain injury,
 150.16 posttraumatic stress disorder, substance abuse, or mental health conditions as a result of
 150.17 that service, including but not limited to programs operated by the United States Department
 150.18 of Defense or Veterans Affairs. If an appropriate treatment provider is not available in the
 150.19 offender's county of residence or public funding is not available, the Minnesota Department
 150.20 of Veterans Affairs shall coordinate with the United States Department of Veterans Affairs
 150.21 to locate an appropriate treatment program and sources to fund the cost of the offender's
 150.22 participation in the program.
- 150.23 (g) The court and the assigned treatment program shall, when available, collaborate with
 150.24 the county veterans service officer and the United States Department of Veterans Affairs
 150.25 to maximize benefits and services provided to the veteran.
- 150.26 (h) If available in the county or judicial district having jurisdiction over the case, the
 150.27 defendant may be supervised by the veterans treatment court program under subdivision 3.
 150.28 If there is a veterans treatment court that meets the requirements of subdivision 3 in the
 150.29 county in which the defendant resides or works, supervision of the defendant may be
 150.30 transferred to that county or judicial district veterans treatment court program. If the defendant
 150.31 successfully completes the veterans treatment court program in the supervising jurisdiction,
 150.32 that jurisdiction shall sentence the defendant under this section. If the defendant is
 150.33 unsuccessful in the veterans treatment court program, the defendant's supervision shall be
 150.34 returned to the jurisdiction that initiated the transfer for standard sentencing.
- 151.1 (i) Sentencing pursuant to this section waives any right to administrative review pursuant
 151.2 to section 169A.53, subdivision 1, or judicial review pursuant to section 169A.53, subdivision
 151.3 2, for a license revocation or cancellation imposed pursuant to section 169A.52, and also
 151.4 waives any right to administrative review pursuant to section 171.177, subdivision 10, or
 151.5 judicial review pursuant to section 171.177, subdivision 11, for a license revocation or
 151.6 cancellation imposed pursuant to section 171.177, if that license revocation or cancellation
 151.7 is the result of the same incident that is being sentenced.

183.3 Subd. 3. **Discharge and dismissal.** (a) Upon the expiration of the period of the defendant's
 183.4 probation the court shall hold a hearing to discharge the defendant from probation and
 183.5 determine whether to dismiss the proceedings against a defendant who received a deferred
 183.6 sentence under subdivision 2. The hearing shall be scheduled so that the parties have adequate
 183.7 time to prepare and present arguments regarding the issue of dismissal. The parties may
 183.8 submit written arguments to the court prior to the date of the hearing and may make oral
 183.9 arguments before the court at the hearing. The defendant must be present at the hearing
 183.10 unless excused under Minnesota Rules of Criminal Procedure, rule 26.03, subdivision 1,
 183.11 clause (3).

183.12 (b) The court shall provide notice to any identifiable victim of the offense at least 15
 183.13 days before the hearing is held. Notice to victims of the offense under this subdivision must
 183.14 specifically inform the victim of the right to submit an oral or written statement to the court
 183.15 at the time of the hearing describing the harm suffered by the victim as a result of the crime
 183.16 and the victim's recommendation on whether dismissal should be granted or denied. The
 183.17 judge shall consider the victim's statement when making a decision. If a victim notifies the
 183.18 prosecutor of an objection to dismissal and is not present at the hearing, the prosecutor shall
 183.19 make the objections known to the court.

183.20 (c) The court shall dismiss proceedings against a defendant if the court finds by clear
 183.21 and convincing evidence that the defendant:

183.22 (1) is in substantial compliance with the conditions of probation;

183.23 (2) has successfully participated in court-ordered treatment and services to address the
 183.24 applicable condition caused by military service;

183.25 (3) does not represent a danger to the health or safety of victims or others; and

183.26 (4) has demonstrated significant benefit from court-ordered education, treatment, or
 183.27 rehabilitation to clearly show that a discharge and dismissal under this subdivision is in the
 183.28 interests of justice.

183.29 (d) In determining the interests of justice, the court shall consider, among other factors,
 183.30 all of the following:

183.31 (1) the defendant's completion and degree of participation in education, treatment, and
 183.32 rehabilitation as ordered by the court;

183.33 (2) the defendant's progress in formal education;

151.8 Subd. 2. **Restorative justice for military veterans; dismissal of charges.** (a) It is in
 151.9 the interest of justice to restore a defendant who acquired a criminal record due to a mental
 151.10 health condition stemming from service in the United States military to the community of
 151.11 law-abiding citizens. The restorative provisions of this subdivision apply to cases in which
 151.12 a court monitoring the defendant's performance of probation under this section finds by
 151.13 clear and convincing evidence at a public hearing, held after not less than 15 days' notice
 151.14 to the prosecution, the defense, and any victim of the offense, that all of the following
 151.15 describe the defendant:

151.16 (1) the defendant was granted probation and was a person eligible under subdivision 1
 151.17 at the time that probation was granted;

151.18 (2) the defendant is in compliance with the conditions of that probation;

151.19 (3) the defendant has successfully completed court-ordered treatment and services to
 151.20 address the sexual trauma, traumatic brain injury, posttraumatic stress disorder, substance
 151.21 abuse, or mental health conditions stemming from military service;

151.22 (4) the defendant does not present a danger to the health and safety of others including
 151.23 any victims; and

151.24 (5) the defendant has demonstrated significant benefit from court-ordered education,
 151.25 treatment, or rehabilitation to clearly show that granting restorative relief pursuant to this
 151.26 subdivision would be in the interest of justice.

151.27 (b) When determining whether granting restorative relief under this subdivision is in
 151.28 the interest of justice, the court may consider, among other factors, all of the following:

151.29 (1) the defendant's completion and degree of participation in education, treatment, and
 151.30 rehabilitation as ordered by the court;

151.31 (2) the defendant's progress in formal education;

- 184.1 (3) the defendant's development of career potential;
- 184.2 (4) the defendant's leadership and personal responsibility efforts;
- 184.3 (5) the defendant's contribution of service in support of the community;
- 184.4 (6) the level of harm to the community from the offense; and
- 184.5 (7) the statement of the victim, if any.
- 184.6 (c) If the court finds that the defendant does not qualify for discharge and dismissal
- 184.7 under paragraph (c), the court shall enter an adjudication of guilt and proceed as otherwise
- 184.8 provided in law, including as provided in subdivision 4.
- 184.9 (f) Discharge and dismissal under this subdivision shall be without court adjudication
- 184.10 of guilt, but a not public record of the discharge and dismissal shall be retained by the Bureau
- 184.11 of Criminal Apprehension for the purpose of use by the courts in determining the merits of
- 184.12 subsequent proceedings against the defendant. The not public record may also be opened
- 184.13 only upon court order for purposes of a criminal investigation, prosecution, or sentencing.
- 184.14 Upon request by law enforcement, prosecution, or corrections authorities, the bureau shall
- 184.15 notify the requesting party of the existence of the not public record and the right to seek a
- 184.16 court order to open the not public record under this paragraph. The court shall forward a
- 184.17 record of any discharge and dismissal under this subdivision to the bureau, which shall
- 184.18 make and maintain the not public record of the discharge and dismissal. The discharge and
- 184.19 dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities
- 184.20 imposed by law upon conviction of a crime or for any other purpose. For purposes of this
- 184.21 paragraph, "not public" has the meaning given in section 13.02, subdivision 8a.
- 184.22 Subd. 4. Sentencing departure; waiver of mandatory sentence. (a) This subdivision
- 184.23 applies to defendants who plead or are found guilty of any criminal offense except one for
- 184.24 which registration is required under section 243.166, subdivision 1b.
- 184.25 (b) Prior to sentencing, a defendant described in paragraph (a) may present proof to the
- 184.26 court that the defendant has, since the commission of the offense, engaged in rehabilitative
- 184.27 efforts consistent with those described in this section. If the court determines that the
- 184.28 defendant has engaged in substantial rehabilitative efforts and the defendant establishes by
- 184.29 clear and convincing evidence that:
- 184.30 (1) the defendant suffered from an applicable condition at the time of the offense;
- 184.31 (2) the applicable condition was caused by service in the United States military; and
- 184.32 (3) the offense was committed as a result of the applicable condition;

- 151.32 (3) the defendant's development of career potential;
- 152.1 (4) the defendant's leadership and personal responsibility efforts;
- 152.2 (5) the defendant's contribution of service in support of the community;
- 152.3 (6) the level of harm to the community from the offense; and
- 152.4 (7) the level of harm to the victim from the offense with the court's determination of
- 152.5 harm guided by the factors for evaluating injury and loss contained in the applicable victim's
- 152.6 rights provisions of chapter 611A.
- 152.12 (d) If the court finds that a defendant placed on probation under subdivision 1 does not
- 152.13 satisfy each of the requirements described in paragraph (a), the court shall enter an
- 152.14 adjudication of guilt and proceed as otherwise provided by law, including sentencing pursuant
- 152.15 to the guidelines, application or waiver of statutory mandatory minimums, or a departure
- 152.16 pursuant to paragraph (e).

185.1 the court may determine that the defendant is particularly amenable to probation and order
 185.2 a mitigated durational or dispositional sentencing departure or a waiver of any statutory
 185.3 mandatory minimum sentence applicable to the defendant.

185.12 Subd. 7. **Exception.** This section does not apply to a person charged with an offense for
 185.13 which registration is required under section 243.166, subdivision 1b.

185.4 Subd. 5. **Optional veterans treatment court program; procedures for eligible**
 185.5 **defendants.** A county or judicial district may supervise probation under this section through
 185.6 a veterans treatment court, using county veterans service officers appointed under sections
 185.7 197.60 to 197.606, United States Department of Veterans Affairs veterans justice outreach
 185.8 specialists, probation agents, and any other rehabilitative resources available to the court.

185.9 Subd. 6. **Creation of county and city diversion programs; authorization.** Any county
 185.10 or city may establish and operate a veterans pretrial diversion program for offenders eligible
 185.11 under subdivision 2 without penalty under section 477A.0175.

152.7 (c) If the court finds that a case satisfies each of the requirements described in paragraph
 152.8 (a), then upon expiration of the period of probation the court shall discharge the defendant
 152.9 and dismiss the proceedings against that defendant. Discharge and dismissal under this
 152.10 subdivision shall be without court adjudication of guilt. The court shall maintain a public
 152.11 record of the discharge and dismissal.

152.17 (e) If the charge to which the defendant entered a plea of guilty is listed under subdivision
 152.18 1, paragraph (a), and is for an offense that is a presumptive commitment to state
 152.19 imprisonment, the court may use the factors of paragraph (a) to justify a dispositional
 152.20 departure or any appropriate sentence, including the application or waiver of statutory
 152.21 mandatory minimums. If the court finds that paragraph (a), clauses (1) to (5), factors, the
 152.22 defendant is presumed amenable to probation.

152.23 (f) This subdivision does not apply to an offense for which registration is required under
 152.24 section 243.166, subdivision 1b, a crime of violence as defined in section 624.712,
 152.25 subdivision 5, or a gross misdemeanor or felony-level domestic violence offense.

152.26 Subd. 3. **Optional veterans treatment court program; procedures for eligible**
 152.27 **defendants.** (a) A county or judicial district may supervise probation under this section
 152.28 through a veterans treatment court using county veterans service officers appointed under
 152.29 sections 197.60 to 197.606, United States Department of Veterans Affairs veterans justice
 152.30 outreach specialists, probation agents, and any other rehabilitative resources available to
 152.31 the court.

153.17 Subd. 4. **Creation of county and city diversion programs; authorization.** Any county
 153.18 or city may establish and operate a veterans pretrial diversion program for offenders eligible
 153.19 under subdivision 1 without penalty under section 477A.0175. "Pretrial diversion" means
 153.20 the decision of a prosecutor to refer an offender to a diversion program on condition that
 153.21 the criminal charges against the offender shall be dismissed after a specified period of time,
 153.22 or the case shall not be charged, if the offender successfully completes the program of
 153.23 treatment recommended by the United States Department of Veterans Affairs or a local,
 153.24 state, federal, or private nonprofit treatment program.

148.24 Subdivision 1. **Offenses as a result of military service; presentence supervision**
 148.25 **procedures.** (a) Except as provided for in subdivision 2, paragraph (f), in the case of a
 148.26 person charged with a criminal offense that is either Severity Level 7, D7, or lower in the
 148.27 Minnesota Sentencing Guidelines, including misdemeanor or gross misdemeanor offenses,
 148.28 who could otherwise be sentenced to county jail or state prison and who alleges that the
 148.29 offense was committed as a result of sexual trauma, traumatic brain injury, posttraumatic
 148.30 stress disorder, substance abuse, or mental health conditions stemming from service in the

185.14 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to crimes
 185.15 committed on or after that date.

148.31 United States military, the court shall, prior to entering a plea of guilty, make a determination
 148.32 as to whether the defendant was, or currently is, a member of the United States military and
 149.1 whether the defendant may be suffering from sexual trauma, traumatic brain injury,
 149.2 posttraumatic stress disorder, substance abuse, or mental health conditions as a result of
 149.3 that person's service. The court may request, through existing resources, an assessment to
 149.4 aid in that determination.

149.19 If the court determines that a defendant suffers from a substance abuse disorder, the court
 149.20 shall order a Rule 25 assessment under Minnesota Rules, part 9530.6615, and follow the
 149.21 recommendations contained in the assessment. If the court determines that a defendant
 149.22 suffers from posttraumatic stress disorder, traumatic brain injury, or other mental health
 149.23 conditions, the court shall order a mental health assessment conducted by a licensed mental
 149.24 health professional and follow the recommendations contained in the examiner's report.

153.25 **EFFECTIVE DATE.** This section is effective August 1, 2021.