

Hawai'i Veterans Treatment Court Referral Process



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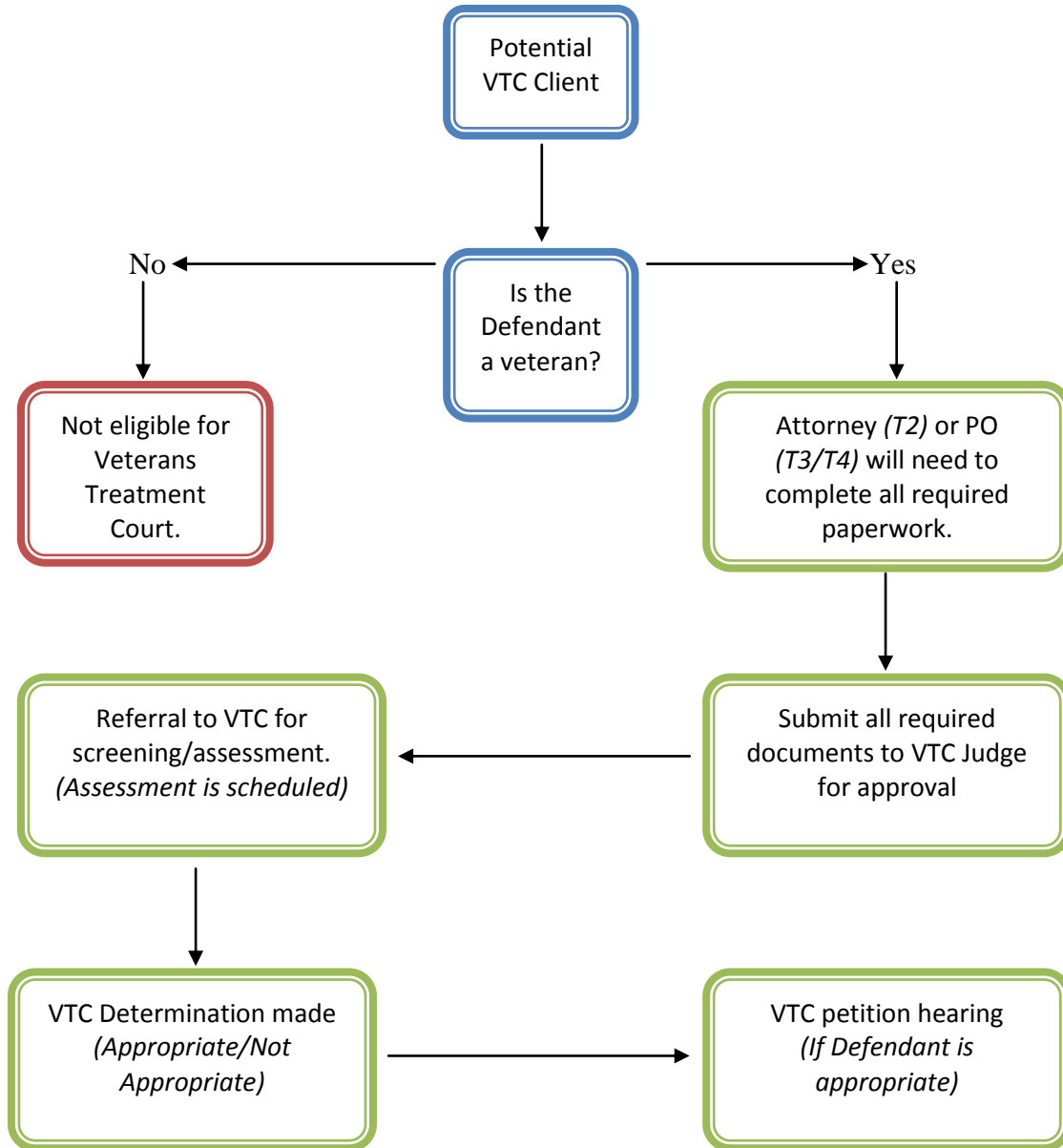
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Veterans Treatment Court Referral Flow Chart



(Please refer to the referral checklist for in depth explanation on this process.)

Referral Process

- **Track II**
 - All VTC request for Track II need to be requested through the VTC DPA
 - If the VTC DPA accepts the defendant for a Track II, an Order for Assessment for Possible Admission to VTC is sent to the VTC Supervisor
 - VTC Supervisor will contact the defendant and/or attorney to set up a time and date to conduct the VTC assessment (*LSI-R, ASUS, VTC Screening Questionnaire, and consent forms*)
 - VTC Supervisor to make a determination for eligibility based on the established VTC criteria
 - If defendant is found appropriate or non-appropriate, VTC Supervisor will e-mail the VTC team (*VTC Judge, VTC DPA, VTC DPD, VA VJO, VA Mentor Coordinator, and defendant's attorney*) regarding the decision and explanation
 - Defendant's petition hearing is set
 - If Defendants petition onto the VTC program is granted, then the defendant enters the VTC program on that hearing date

- **Track III & IV**
 - Probation officer to complete VTC Referral Form (*Found in Caseload Explorer*)
 - PO submits complete screening request, PSI Report, Probation Violation Report, and Motion for Modification / Motion for Revocation to VTC Judge
 - VTC Judge will review the referral packet to see if the VTC referral meets the requirements (*No = ends VTC referral process, Yes = packet set to VTC Supervisor*)
 - If yes, the referral packet and an Order for Assessment for Possible Admission to VTC are sent to the VTC Supervisor.
 - VTC Supervisor will contact the defendant and/or attorney to set up a time and date to conduct the VTC assessment (*LSI-R, ASUS, VTC Screening Questionnaire, and consent forms*)
 - VTC Supervisor to make a determination for eligibility based on the established VTC criteria
 - If defendant is found appropriate or non-appropriate, VTC Supervisor will e-mail the VTC team (*VTC Judge, VTC DPA, VTC DPD, VA VJO, VA Mentor Coordinator, and defendant's attorney*) regarding the decision and explanation
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 - If Defendants petition onto the VTC program is granted, then the defendant enters the VTC program on that hearing date

**Once the defendant is petitioned into the VTC program, the former probation officer of the defendant will need to transfer all folders and files of the defendant to the VTC office.*

What is the definition of a “Veteran”?

- ***Hawaii Revised Statutes 363-1***
“Veteran” means any person who has served in any of the armed services of the United States, or any person who is now a citizen of the United States who has served in any of the armed services of any country which was an ally of the United States in any war or campaign in which the United States was also engaged.
- ***Title 38 of the Code of Federal Regulations***
The term “veteran” means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

Eligibility

For admission into Veterans Treatment Court, the veteran must be:

- 1) A person who has served in the military; and
- 2) A person who is:
 - a) on a diversionary program; or
 - b) pending a change of plea; or
 - c) pending sentence; or
 - d) on probationary or deferral status or its equivalent; and
- 3) A person who has been charged with the offense of Abuse of a family or Household Member, in violation of Section 709-906, of the Hawai'i Revised Statutes which will be considered on a case by case basis; or
- 4) A person who has been charged with a Class "C" felony offense, and who qualifies for either of the following sentences:
 - a) A Deferred Acceptance of a Guilty or No Contest Plea;
 - b) A Conditional Discharge;
 - c) Act 40 first time drug offender;
 - d) Act 230 first time property offender;
 - e) Any member who is currently on a diversion program and who seeks acceptance into the VTC for that diversionary offense, with the written consent of the State of Hawaii;
 - f) An individual who possess "exceptional circumstances" under the totality of the circumstances, and whose entry into the program is with the written consent of the State of Hawaii.

Exclusions (except for those noted in the charge list for case by case consideration)

- 1) Violence
- 2) Sex offenses
- 3) The jurisdiction where the crime occurred

Tiers of Charges

The following lists of charges are not exhaustive. They also are not meant to replace discussion among VTC team members but to (1) provide guidance to persons interested in referring charged individuals to the VTC and (2) assist the VTC team in determining which individuals may be eligible for the court.

Charges listed in this document are divided into three categories:

- Charges **not eligible** for the VTC,
- Charges **eligible** for the VTC, and
- Charges that require discussion among the VTC team on a **case-by-case basis** in order to determine – by consensus – whether to admit an individual to the court.

Within the list of case-by-case charges for consideration there are some charges that are bracketed. These are charges that are less likely to be eligible for the court than others in this category but these may still be discussed by the VTC team.

Not Eligible Under the VTC

Murder

- § 707-701 Murder in the 1st Degree
- § 707-701.5 Murder in the 2nd Degree

Non-negotiable Manslaughter

- § 707-702 Manslaughter

Negligent Homicide

- § 707-702.5 Negligent Homicide in the 1st Degree
- § 707-703 Negligent Homicide in the 2nd Degree
- § 707-704 Negligent Homicide in the 3rd Degree

Forcible Rape/Sex Offenses

- § 707-730 Sexual Assault in the 1st Degree
- § 707-731 Sexual Assault in the 2nd Degree
- § 707-732 Sexual Assault in the 3rd Degree
- § 707-750 Promoting Child Abuse in the 1st Degree
- § 707-751 Promoting Child Abuse in the 2nd Degree
- § 707-752 Promoting Child Abuse in the 3rd Degree
- § 707-756 Electronic Enticement of a child in the 1st Degree
- § 707-757 Electronic Enticement of a child in the 2nd Degree
- § 707-758 Sexual Exploitation of a child

Robbery

- § 708-840 Robbery in the 1st Degree
- § 708-841 Robbery in the 2nd Degree
- § 708-842 Robbery; “in the course of committing a theft”

Aggravated Assault

- § 707-710 Assault in the 1st Degree
- § 707-711 Assault in the 2nd Degree
- § 707-712.5 Assault against a Police Officer in the 1st Degree
- § 707-712.6 Assault against a Police Officer in the 2nd Degree

Violent offenses against people

- ❖ See copy of § 707 index (Appendix 1)

Arson

- § 708-821 Criminal Property Damage in the 1st Degree
- § 708-822 Criminal Property Damage in the 2nd Degree

Weapons

- § 134-4 Transfer, possession of Firearms
- § 134-6 Carrying or use of Firearm in the commission of a separate felony; place to keep firearms; loaded firearms; penalty
- § 134-7 Ownership of possession prohibited, when; penalty.
- § 134-8 Ownership, etc., of automatic firearms, silencers, etc., prohibited; penalties.

Eligible under the VTC

Any *charged* (not reduced) theft/stolen Property

- § 708-830.5 Theft in the 1st Degree
- § 708-831 Theft in the 2nd Degree (as long as it's not attended by people)
- § 708-832 Theft in the 3rd Degree
- § 708-833 Theft in the 4th Degree
- § 708-833.5 Shoplifting
- § 708-8102 Theft, Forgery, etc. of Credit Cards
- § 708-835.5 Theft of Livestock
- § 708-839.5 Theft of utility Services
- § 708-839.6 Identity Theft in the 1st Degree
- § 708-839.7 Identity Theft in the 2nd Degree
- § 708-839.8 Identity Theft in the 3rd Degree

Criminal property damage 2, 3, and 4 – As long as it's not attended by people/Vandalism

- § 708-820 Criminal Property Damage in the 1st Degree
- § 708-821 Criminal Property Damage in the 2nd Degree
- § 708-822 Criminal Property Damage in the 3^d Degree
- § 708-823 Criminal Property Damage in the 4th Degree

Criminal trespass 1 & 2 (though not of a hotel room or home)

- § 708-813 Criminal Trespass in the 1st Degree
- § 708-814 Criminal Trespass in the 2nd Degree
- § 708-815 Simple Trespass

Unauthorized control of a private vehicle

- § 708-836 Unauthorized control of a propelled vehicle

Unauthorized entry of a motor

- § 708-836.5 Unauthorized entry of a motor vehicle

Disorderly conduct

- § 711-1101 Disorderly Conduct

Forgery

- § 708-851 Forgery in the 1st Degree
- § 708-852 Forgery in the 2nd Degree
- § 708-853 Forgery in the 3rd Degree
- § 708-8102 Theft, Forgery, etc., of Credit Cards

Fraud

- § 708-8100 Fraudulent use of a credit card
- § 708-8100.5 fraudulent encoding of a credit card
- § 708-8103 Credit Card Fraud by a provider of goods or services
- § 708-8200 Cable television service fraud in the 1st Degree
- § 708-8201 Cable television service fraud in the 2nd Degree
- § 708-8203 Telecommunication service fraud in the 1st Degree
- § 708-8204 Telecommunication service fraud in the 2nd Degree
- § 708-835.6 Telemarketing Fraud
- § 708-891 Computer Fraud in the 1st Degree
- § 708-891.5 Computer Fraud in the 2nd Degree
- § 708-875 Trademark Counterfeiting

Embezzlement

- ❖ See FRAUD, THEFT, FORGERY

Gambling

- § 712-1222 Promoting Gambling in the 2nd Degree
- § 712-1222.5 Promoting Gambling abroad ships
- § 712-1223 Gambling
- § 712-1224 Possession of Gambling Records in the 2nd Degree
- § 712-1225 Possession of a Gambling Device

May be Eligible for the VTC

Interference w/Operator of a Public Transit Vehicle (nonviolent)

- § 711-1112 Interference with the operator of a public transit vehicle

Violation of Order for Protection

- § 586-11 Violation of order for Protection

Gambling

- § 712-1221 Promoting Gambling in the 1st Degree
- § 712-1224 Possession of Gambling Records in the 1st Degree

Violating a TRO

- § 586-4 Temporary restraining order

Forcible Rape/Sex Offenses

§ 707-733 Sexual Assault in the 4th Degree

Aggravated Assault

§ 707-712 Assault in the 3rd Degree

Indecent Exposure

§ 712-1217 Open Lewdness

Cruelty to Animals

§ 711-1109 Cruelty to Animals

§ 711-1109.3 Cruelty to Animals; fighting dogs

Burglary

§ 708-810 Burglary in the 1st Degree

§ 708-811 Burglary in the 2nd Degree

Motor Vehicle Theft

❖ See UCPV

Prostitution

§ 712-1200 Prostitution

§ 712-1202 Promoting Prostitution; in the 1st Degree

§ 712-1203 Promoting Prostitution; in the 2nd Degree

§ 712-1204 Promoting Prostitution; in the 3rd Degree

§ 712-1206 Loitering for the purpose of engaging in or advancing prostitution

§ 712-1207 Street solicitation of prostitution; designated areas

Drug Laws

§ 712-1241 Promoting a Dangerous Drug in the 1st Degree

§ 712-1242 Promoting a Dangerous Drug in the 2nd Degree

§ 712-1243 Promoting a Dangerous Drug in the 3rd Degree

§ 712-1244 Promoting a Harmful Drug in the 1st Degree

§ 712-1245 Promoting a Harmful Drug in the 2nd Degree

§ 712-1246 Promoting a Harmful Drug in the 3rd Degree

§ 712-1246.5 Promoting a Harmful Drug in the 4th Degree

§ 712-1247 Promoting a Detrimental Drug in the 1st Degree

§ 712-1248 Promoting a Detrimental Drug in the 2nd Degree

§ 712-1249 Promoting a Detrimental Drug in the 3rd Degree

§ 712-1249.4 Commercial Promotion of Marijuana in the 1st Degree

§ 712-1249.5 Commercial Promotion of Marijuana in the 2nd Degree

§ 712-1249.6 Promoting a Controlled Substance in, on, or near schools, school vehicles, or parks

Family Offenses

- § 709-900 Illegally Marrying
- § 709-901 Concealing the corpse of an infant
- § 709-902 Abandonment of a child
- § 709-903 Persistent nonsupport
- § 709-903.5 Endangering the welfare of a minor in the 1st Degree
- § 709-904 Endangering the welfare of a minor in the 2nd Degree
- § 709-904.5 Compensation by an adult of juveniles for crimes; grade or class of offense increased
- § 709-906 Abuse of family or household members; penalty

Driving Under the Influence

- § 291E-61 Operating a vehicle under the influence of an intoxicant
- § 291E-61.5 Habitually operating a vehicle under the influence of an intoxicant
- § 291E-64 Operating a vehicle after consuming a measurable amount of alcohol; persons under the age of twenty-one

Liquor Laws

- ❖ See Hawaii Revised Statute Chapter 281