

21-6630. Sentencing of certain veterans; mental health treatment; drug abuse treatment. (a) Upon motion of the defendant at the time of conviction or prior to sentencing, a defendant convicted of a criminal offense may assert that such defendant committed such offense as a result of mental illness, including posttraumatic stress disorder, stemming from service in a combat zone in the United States armed forces. The court shall hold a hearing to determine whether the defendant:

(1) Has served in the armed forces of the United States of America in a combat zone, as defined in section 112 of the federal internal revenue code of 1986. Proof of such service shall consist of a certification by the executive director of the Kansas commission on veterans affairs in accordance with K.S.A. 73-1209, and amendments thereto;

(2) has separated from such armed forces with an honorable discharge or general discharge under honorable conditions;

(3) suffers from mental illness; and

(4) such mental illness was caused or exacerbated by events occurring during such defendant's service in a combat zone.

(b) (1) Except as provided in subsection (b)(2), if the court determines that such defendant meets the criteria provided in subsection (a) and such defendant's current crime of conviction and criminal history fall within a presumptive nonprison category under the sentencing guidelines, the court may order such defendant to undergo inpatient or outpatient treatment from any treatment facility or program operated by the United States department of defense, the federal veterans' administration or the Kansas national guard with the consent of the defendant.

(2) If the court determines that such defendant meets the criteria provided in subsection (a) and such defendant meets the requirements established in K.S.A. 2014 Supp. 21-6824, and amendments thereto, the provisions of K.S.A. 2014 Supp. 21-6824, and amendments thereto, shall apply, except that in lieu of requiring such defendant to participate in a certified drug abuse treatment program as provided in K.S.A. 2014 Supp. 75-52,144, and amendments thereto, the court may order such defendant to undergo drug abuse treatment from any treatment facility or program operated by the United States department of defense, the federal veterans' administration or the Kansas national guard with the consent of the defendant.

(c) Nothing in this section shall be construed to limit the court's authority to:

(1) Order any other sanction pursuant to K.S.A. 2014 Supp. 21-6602 or 21-6604, and amendments thereto;

(2) order a mental examination pursuant to K.S.A. 22-3429, and amendments thereto;

(3) order commitment pursuant to K.S.A. 22-3430 et seq., and amendments thereto; or

(4) determine that a person is a mentally ill person subject to involuntary commitment for care and treatment as defined in K.S.A. 59-2946, and amendments thereto.

(d) As used in this section:

(1) "Mental illness" means a mental disorder manifested by a clinically significant behavioral or psychological syndrome or pattern and associated with either a painful symptom or an impairment in one or more important areas of functioning, and involving substantial behavioral, psychological or biological dysfunction, to the extent that the person is in need of treatment; and

(2) "posttraumatic stress disorder" means posttraumatic stress disorder as defined in the diagnostic and statistical manual of mental disorders, fifth edition (DSM-5, 2013), of the American psychiatric association and that occurred as a result of events during the person's service in one or more combat zones.

(e) This section shall be a part of and supplemental to the Kansas criminal code.

History: L. 2014, ch. 95, § 1; July 1.