

2016 Kansas Statutes

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 an injury, including major depressive disorder, polytrauma, post-traumatic stress disorder or traumatic brain injury, connected to service in a combat zone in the armed forces of the United States of America. 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) suffers from injury; and

(3) such injury was connected to service in a combat zone in the armed forces of the United States of America.

(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 United States department of veterans affairs or the Kansas national guard, if the defendant is eligible for and consents to such treatment.

(2) If the court determines that such defendant meets the criteria provided in subsection (a), such defendant is ineligible for treatment pursuant to subsection (b)(1) and such defendant meets the requirements established in K.S.A. 2016 Supp. 21-6824, and amendments thereto, the provisions of K.S.A. 2016 Supp. 21-6824, and amendments thereto, shall apply.

(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. 2016 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) "Major depressive disorder" and "post-traumatic stress disorder" mean the same as such terms are 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 defendant's service in one or more combat zones.

(2) "Polytrauma" means injury to multiple body parts and organ systems that occurred as a result of events during the defendant's service in one or more combat zones.

(3) "Traumatic brain injury" means injury to the brain caused by physical trauma that occurred as a result of events during the defendant'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; L. 2015, ch. 76, § 6; July 1.