

<b>Tab 1</b>	<b>SB 782</b> by <b>Simmons</b> ; (Identical to H 00887) Youthful Offenders
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<b>Tab 2</b>	<b>SB 910</b> by <b>Gainer</b> ; Court-ordered Treatment Programs
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The Florida Senate  
**COMMITTEE MEETING EXPANDED AGENDA**  
**APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND CIVIL JUSTICE**  
**Senator Brandes, Chair**  
**Senator Bracy, Vice Chair**

**MEETING DATE:** Tuesday, March 19, 2019  
**TIME:** 10:00 a.m.—12:00 noon  
**PLACE:** Mallory Horne Committee Room, 37 Senate Building

**MEMBERS:** Senator Brandes, Chair; Senator Bracy, Vice Chair; Senators Gainer, Gruters, Harrell, Perry, Rouson, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 782</b> Simmons (Identical H 887)	Youthful Offenders; Revising the criteria allowing a court to sentence as a youthful offender a person who is found guilty of, or who pled nolo contendere or guilty to, committing a felony before the person turned 21 years of age, etc.  CJ     03/04/2019 Favorable ACJ    03/19/2019 Favorable AP	Favorable Yeas 6 Nays 0
2	<b>SB 910</b> Gainer	Court-ordered Treatment Programs; Providing that veterans who were discharged or released under any condition, individuals who are current or former United States Department of Defense contractors, and individuals who are current or former military members of a foreign allied country are eligible in a certain Military Veterans and Servicemembers Court Program, etc.  JU     03/04/2019 Favorable ACJ    03/19/2019 Favorable AP	Favorable Yeas 5 Nays 0

Other Related Meeting Documents

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

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BILL: SB 782

INTRODUCER: Senator Simmons

SUBJECT: Youthful Offenders

DATE: March 18, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Storch</u>	<u>Jones</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Jameson</u>	<u>Jameson</u>	<u>ACJ</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 782 permits a court to impose a sentence as a youthful offender if a person committed a felony *before they turned 21 years of age*. Current law requires the person to be under 21 years of age at the time of sentencing.

The Criminal Justice Impact Conference (CJIC) reviewed HB877 which is identical to this bill, and determined that the bill will have no impact on state prison beds. Accordingly, the bill will have no fiscal impact on state government.

The bill is effective July 1, 2019.

**II. Present Situation:**

Current law provides an alternative sentencing scheme for certain youthful offenders convicted of a felony. A court may sentence a person as a youthful offender if he or she:

- Was found guilty of, or plead nolo contendere or guilty to a felony;<sup>1</sup>
- Is younger than 21 years of age at the time the sentence is imposed; and
- Has not previously been sentenced as a youthful offender.<sup>2</sup>

If a court elects to sentence a person as a youthful offender, it must sentence the youthful offender to any combination of the following penalties:

- Placement of the youthful offender on probation or in a community control program for no more than 6 years. Under this sentencing option, the court can choose to withhold adjudication of guilt or impose adjudication of guilt.

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<sup>1</sup> A person who has been found guilty of a capital or life felony may not be sentenced as a youthful offender under s. 958.04, F.S.

<sup>2</sup> Section 958.04(1)(a)-(c), F.S.

- Incarcerate the youthful offender for no more than 364 days. The incarceration must take place in a specified facility and is a condition of probation or community control.
- Incarcerate the youthful offender for a specified period followed by a term of probation or community control. If the incarceration is in specified Department of Corrections facilities, it cannot be for less than 1 year or longer than 4 years. The period of incarceration and probation or community control cannot exceed 6 years.
- Incarcerate the youthful offender for no more than 6 years.<sup>3</sup>

### III. Effect of Proposed Changes:

The bill permits a court to impose a sentence as a youthful offender if a person committed a felony *before they turned 21 years of age*. Current law requires the person to be under 21 years of age at the time of sentencing.

As a result, a larger group of people will now be eligible for a youthful offender sentence.

The bill reenacts ss. 958.03(5), 958.045(8)(a), and 985.565(4)(c), F.S.

The bill is effective July 1, 2019.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

#### E. Other Constitutional Issues:

None identified.

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<sup>3</sup> Section 958.04(2)(a)-(d), F.S. Any of these sentencing combinations cannot exceed the maximum sentence for the offense for which the youthful offender was found guilty. If a youthful offender is sentenced to a period of incarceration, the court must adjudicate the youthful offender guilty.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The CJIC reviewed HB 877, which is identical to this bill, and determined that the bill will have no impact on state prison beds.<sup>4</sup> Accordingly, the bill will have no fiscal impact on state government.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 958.04 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 958.03, 958.045, and 985.565.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>4</sup>2019 Conference Results (through February 27, 2018), CJIC, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/HB887.pdf>.

By Senator Simmons

9-00969-19

2019782\_\_

1                   A bill to be entitled  
2       An act relating to youthful offenders; amending s.  
3       958.04, F.S.; revising the criteria allowing a court  
4       to sentence as a youthful offender a person who is  
5       found guilty of, or who pled nolo contendere or guilty  
6       to, committing a felony before the person turned 21  
7       years of age; reenacting ss. 958.03(5), 958.045(8)(a),  
8       and 985.565(4)(c), F.S., relating to the definition of  
9       the term "youthful offender," the youthful offender  
10      basic training program, and classification as a youth  
11      offender, respectively, to incorporate the amendment  
12      made to s. 958.04, F.S., in references thereto;  
13      providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17       Section 1. Subsection (1) of section 958.04, Florida  
18      Statutes, is amended to read:

19       958.04 Judicial disposition of youthful offenders.—

20       (1) The court may sentence as a youthful offender any  
21      person:

22       (a) Who is at least 18 years of age or who has been  
23      transferred for prosecution to the criminal division of the  
24      circuit court pursuant to chapter 985;

25       (b) Who is found guilty of or who has tendered, and the  
26      court has accepted, a plea of nolo contendere or guilty to a  
27      crime that is, under the laws of this state, a felony if such  
28      crime was committed before the defendant turned 21 years of age  
29      ~~the offender is younger than 21 years of age at the time~~

9-00969-19

2019782\_\_

30 ~~sentence is imposed; and~~

31 (c) Who has not previously been classified as a youthful  
32 offender under the provisions of this act; however, a person who  
33 has been found guilty of a capital or life felony may not be  
34 sentenced as a youthful offender under this act.

35 Section 2. For the purpose of incorporating the amendment  
36 made by this act to section 958.04, Florida Statutes, in a  
37 reference thereto, subsection (5) of section 958.03, Florida  
38 Statutes, is reenacted to read:

39 958.03 Definitions.—As used in this act:

40 (5) "Youthful offender" means any person who is sentenced  
41 as such by the court or is classified as such by the department  
42 pursuant to s. 958.04.

43 Section 3. For the purpose of incorporating the amendment  
44 made by this act to section 958.04, Florida Statutes, in a  
45 reference thereto, paragraph (a) of subsection (8) of section  
46 958.045, Florida Statutes, is reenacted to read:

47 958.045 Youthful offender basic training program.—

48 (8)(a) The Assistant Secretary for Youthful Offenders shall  
49 continuously screen all institutions, facilities, and programs  
50 for any inmate who meets the eligibility requirements for  
51 youthful offender designation specified in s. 958.04, whose age  
52 does not exceed 24 years. The department may classify and assign  
53 as a youthful offender any inmate who meets the criteria of s.  
54 958.04.

55 Section 4. For the purpose of incorporating the amendment  
56 made by this act to section 958.04, Florida Statutes, in a  
57 reference thereto, paragraph (c) of subsection (4) of section  
58 985.565, Florida Statutes, is reenacted to read:

9-00969-19

2019782\_\_

59 985.565 Sentencing powers; procedures; alternatives for  
60 juveniles prosecuted as adults.—

61 (4) SENTENCING ALTERNATIVES.—

62 (c) *Adult sanctions upon failure of juvenile sanctions.*—If  
63 a child proves not to be suitable to a commitment program,  
64 juvenile probation program, or treatment program under paragraph  
65 (b), the department shall provide the sentencing court with a  
66 written report outlining the basis for its objections to the  
67 juvenile sanction and shall simultaneously provide a copy of the  
68 report to the state attorney and the defense counsel. The  
69 department shall schedule a hearing within 30 days. Upon  
70 hearing, the court may revoke the previous adjudication, impose  
71 an adjudication of guilt, and impose any sentence which it may  
72 lawfully impose, giving credit for all time spent by the child  
73 in the department. The court may also classify the child as a  
74 youthful offender under s. 958.04, if appropriate. For purposes  
75 of this paragraph, a child may be found not suitable to a  
76 commitment program, community control program, or treatment  
77 program under paragraph (b) if the child commits a new violation  
78 of law while under juvenile sanctions, if the child commits any  
79 other violation of the conditions of juvenile sanctions, or if  
80 the child's actions are otherwise determined by the court to  
81 demonstrate a failure of juvenile sanctions.

82

83 It is the intent of the Legislature that the criteria and  
84 guidelines in this subsection are mandatory and that a  
85 determination of disposition under this subsection is subject to  
86 the right of the child to appellate review under s. 985.534.

87 Section 5. This act shall take effect July 1, 2019.





The Florida Senate

## Committee Agenda Request

**To:** Senator Jeff Brandes, Chair  
Appropriations Subcommittee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** March 4, 2019

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I respectfully request that **Senate Bill 782**, relating to Youthful Offenders, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "David Simmons".

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Senator David Simmons  
Florida Senate, District 9

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/19/19

*Meeting Date*

782

*Bill Number (if applicable)*

Topic Youthful Offender sentencing

*Amendment Barcode (if applicable)*

Name Carlos Martinez

Job Title Public Defender, 11th Judicial Circuit

Address 1320 NW 14th St.

Phone (305) 545-1900

*Street*

Miami

*City*

FL

*State*

33125

*Zip*

Email cmartinex@pdmiami.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Public Defender Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

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BILL: SB 910

INTRODUCER: Senator Gainer

SUBJECT: Court-ordered Treatment Programs

DATE: March 19, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 910 expands the eligibility criteria for individuals who may participate in a military veterans' and servicemembers' court program, more commonly known as veterans' courts. A veterans' court is a problem-solving court providing treatment intervention to military veterans and servicemembers who are charged with or convicted of criminal offenses and who are also suffering military-related injuries, such as post-traumatic stress disorder, traumatic brain injury, or a substance abuse disorder.

Currently, individuals who are eligible to participate in a veterans' court include honorably discharged veterans, generally discharged veterans, and active duty servicemembers. The bill expands participation eligibility by eliminating the requirement that a veteran be honorably or generally discharged. Instead, the bill provides that any veteran discharged or released under any condition is eligible to participate in a veterans' court.

Additionally, the bill expands participation eligibility beyond veterans and active duty servicemembers to individuals who are current or former United States defense contractors and military members of a foreign allied country.

While the bill may increase the number of cases referred to veterans' courts, the bill does not have a fiscal impact on state funds. See Section V.

The bill takes effect on October 1, 2020.

## II. Present Situation:

Veterans' courts are problem-solving courts aimed at addressing the root causes of criminal behavior.<sup>1</sup> Modeled after the drug court treatment programs, the purpose of the veterans' courts is to divert eligible defendants who are veterans or servicemembers into treatment programs for military-related conditions or war-related trauma, such as post-traumatic stress disorder, mental illness, traumatic brain injury, or substance abuse. Diversion to a veterans' court treatment program may occur either before trial or at sentencing.<sup>2</sup>

Veterans' courts consider whether an individual's military-related condition can be addressed through an individualized treatment program.<sup>3</sup> Like the drug courts, the veterans' courts implement the following 10 key components<sup>4</sup> when addressing the needs of the individual:

- Integration of alcohol, drug treatment, and mental health services into justice system case processing;
- Nonadversarial approach;
- Early identification of eligible participants;
- Continuum of services;
- Alcohol and drug testing for abstinence;
- Coordinated strategy for responses to participants' compliance;
- Ongoing judicial interaction;
- Monitoring and evaluation for program effectiveness;
- Interdisciplinary education; and
- Partnerships with stakeholders.<sup>5</sup>

Significantly, veterans' courts involve not only nonadversarial cooperation among "traditional partners found in drug courts, such as the judge, state attorney, public defender, case manager, treatment provider, probation, and law enforcement[.]" but also cooperation with "representatives of the Veterans Health Administration (VHA) and the Veterans Benefit Administration as well as State Departments of Veterans Affairs, Vet Centers, Veterans Service Organizations, Department of Labor, volunteer veteran mentors, and other veterans support groups."<sup>6</sup> Veterans' courts are also able to "leverage resources available from the U.S. Department of Veterans Affairs" to provide treatment and other services to veterans and servicemembers.<sup>7</sup>

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<sup>1</sup> Florida Courts, *Problem-Solving Courts*, <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/> (last visited March 10, 2019).

<sup>2</sup> See notes 14, 15, and 16 and accompanying text, *infra*.

<sup>3</sup> Section 394.47891, F.S.

<sup>4</sup> Section 397.334(4), F.S.

<sup>5</sup> See Florida Courts, *Veterans Courts*, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Veterans-Courts> (last visited March 10, 2019), noting that the 10 key components derive from "The Ten Key Components of Veterans Treatment Court" provided by Justice for Vets, a division of the National Association of Drug Court Professionals. See also Justice for Vets, *The Ten Key Components of Veterans Treatment Courts*, <https://justiceforvets.org/wp-content/uploads/2017/02/The-Ten-Key-Components-of-Veterans-Treatment-Courts.pdf> (last visited March 10, 2019).

<sup>6</sup> Florida Courts, *Veterans Courts*, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Veterans-Courts> (last visited March 10, 2019).

<sup>7</sup> *Id.*

## Florida's Veterans' Courts

In 2012, the Florida Legislature passed the “T. Patt Maney Veterans’ Treatment Intervention Act.”<sup>8</sup> The Act created the military veterans and servicemembers court program,<sup>9</sup> better known as veterans’ courts.<sup>10</sup> Specifically, the Act authorizes the chief judge of each judicial circuit to establish a veterans’ court program to serve the special needs of eligible veterans<sup>11</sup> and active duty servicemembers<sup>12</sup> who are:

- Suffering a military-related condition, such as mental illness, traumatic brain injury, or substance abuse; and
- Charged with or convicted of a criminal offense.<sup>13</sup>

The Act also added provisions to chapter 948, F.S., providing for when veterans and servicemembers may be eligible to participate in the veterans’ court program for treatment and services. Eligible individuals may participate after being:

- Charged with a criminal misdemeanor<sup>14</sup> or certain felony offenses but before being convicted (pretrial intervention);<sup>15</sup> or
- Convicted and sentenced, as a condition of probation or community control.<sup>16</sup>

### *Pretrial Intervention Participation*

After a criminal arrest, rather than being prosecuted, eligible veterans may be diverted to a pretrial intervention program. Prior to placement in a pretrial intervention program, a veterans’ treatment intervention team must develop an individualized, coordinated strategy for the veteran. The team must present the coordinated strategy to the veteran in writing before he or she agrees to enter the program. The strategy is modeled after the ten therapeutic jurisprudence principles and key components for treatment-based drug court programs.<sup>17</sup>

If the defendant agrees to participate in the pretrial intervention program, while participating in the program, the court retains jurisdiction in the defendant’s case. At the end of the program, the court considers recommendations for disposition by the state attorney and the program administrator. If the veteran successfully completes the treatment program, the court must

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<sup>8</sup> CS/CS/SB 922 (ch. 2012-159, Laws of Fla.).

<sup>9</sup> Section 394.47891, F.S.

<sup>10</sup> Florida Courts, *Veterans Courts*, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Veterans-Courts> (last visited March 10, 2019).

<sup>11</sup> Section 1.01(14), F.S., defines a veteran as a person who served in active military, naval, or air service who was discharged or released under honorable conditions or who later received an upgraded discharge under honorable conditions.

<sup>12</sup> Section 250.01(19), F.S., defines a servicemember as a person serving as a member of the United States Armed Forces on active duty or state active duty and members of the Florida National Guard and United States Reserve Forces..

<sup>13</sup> Section 394.47891, F.S.

<sup>14</sup> Section 948.16(2), F.S., establishes the misdemeanor pretrial veterans’ treatment intervention program.

<sup>15</sup> Section 948.08(7), F.S., authorizes courts to consider veterans charged with non-disqualifying felonies for pretrial veterans’ treatment intervention programs. There is also a cross-reference in section 948.08(7), F.S., to the disqualifying felony offenses listed in s. 948.06(8)(c), F.S., which lists 19 disqualifying felony offenses of a serious nature, including kidnapping, murder, sexual battery, treason, etc.

<sup>16</sup> Section 948.21, F.S.

<sup>17</sup> See section 948.08(7)(b), F.S. (requiring a coordinated strategy for veterans charged with felonies); section 948.16(2)(b), F.S. (requiring a coordinated strategy for veterans charged with misdemeanors). See also section 397.334(4), F.S. (requiring treatment based court programs to include therapeutic jurisprudence principles and components recognized by the United States Department of Justice and adopted by the Florida Supreme Court Treatment-based Drug Court Steering Committee).

dismiss the criminal charges. If the court finds that the veteran did not successfully complete the pretrial intervention program, the court can either order the veteran to continue in education and treatment or authorize the state attorney to proceed with prosecution.<sup>18</sup>

Eligible veterans who successfully complete the diversion program may petition the court to order the expunction of the arrest record and the plea.<sup>19</sup>

### ***Participation in Treatment Program while on Probation or Community Control***

Veterans and servicemembers may also qualify for treatment and services as part of their criminal sentence. For crimes committed on or after July 1, 2012, a court may order a veteran or servicemember suffering from a military-related mental illness, a traumatic brain injury, or a substance abuse disorder to successfully complete a mental health or substance abuse treatment program as a condition of probation or community control.<sup>20</sup>

### ***Current Court Statistics***

According to the State Court Administrator's Office of Court Improvement, as of July 2018, there were 30 veterans' courts in Florida.<sup>21</sup> Additionally, the Office of Court Improvement reports that in 2017, "Florida's veterans' courts admitted 1,051 participants and graduated 593."<sup>22</sup>

### **Expansion of Participant Eligibility in Florida's Veterans' Courts**

Under current law, to be eligible to participate in the veterans' court program, the defendant must allege that he or she is suffering a military-related injury and establish that he or she is:

- An honorably discharged veteran;<sup>23</sup>
- A generally discharged veteran;<sup>24</sup> or
- An active duty servicemember.<sup>25</sup>

By the recommendation of the Task Force on Substance Abuse and Mental Health Issues in the Courts,<sup>26</sup> Florida's court system has proposed that eligibility to participate in the veterans' courts be expanded to all veterans of any discharge status. The Task Force also recommends that

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<sup>18</sup> Section 948.08(7)(b)-(c), F.S.

<sup>19</sup> Sections 948.16(2)(b), 948.08(7)(b), F.S.

<sup>20</sup> Section 948.21(1), F.S. For crimes committed after July 1, 2012, veterans discharged or released under a general discharge also qualified for participation in veterans' treatment programs as a condition of probation or community control. Section 948.21(2), F.S.

<sup>21</sup> Florida Courts, *Veterans Courts*, <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts/Veterans-Courts> (last visited Feb. 25, 2019).

<sup>22</sup> Email from the Office of the State Courts Administrator, March 1, 2019 (on file with Senate Criminal and Civil Justice Appropriations Committee).

<sup>23</sup> Section 1.01(14), F.S.

<sup>24</sup> Section 948.21(2), F.S.

<sup>25</sup> Section 250.01(19), F.S.

<sup>26</sup> The "Task Force on Substance Abuse and Mental Health Issues in the Courts" is the task force "charged with developing a strategy for ensuring fidelity to nationally accepted key components of veterans courts" pursuant to Florida Supreme Court Administrative Order 14-46. See Judicial Branch 2019 Legislative Agenda, *Expansion of Veterans Court Eligibility*, p. 51, n. 17 (on file with Senate Judiciary Committee).

veterans' courts be extended to other military-related individuals: current or former United States defense contractors, and current or former military members of a foreign allied country.<sup>27</sup>

The proposed expansion to include contractors and military members of foreign allied countries is in response to nationwide reports “that a large number of service personnel are being excluded from veterans courts because they do not meet the definition of ‘veteran’ or ‘servicemember’” who have “served our country and would respond well to veterans court interventions.”<sup>28</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 394.47891, F.S., to expand the eligibility criteria for who may participate in the Military Veterans' and Servicemembers' Court Program. This section does two things:

- (1) It eliminates the requirement that a veteran be honorably or generally discharged, providing instead that any veteran discharged or released under any condition is eligible to participate.
- (2) It expands eligibility beyond veterans and active duty servicemembers to include individuals who are current or former United States defense contractors and current or former military members of a foreign allied country.

**Sections 2, 3, and 4** make conforming changes to the statutory provisions concerning pretrial intervention and sentencing based on the expanded eligibility for Veterans' court treatment programs set out in Section 1.

**Section 2** amends s. 948.08, F.S., to clarify that pretrial intervention programs extend to any person charged with a **felony**<sup>29</sup> who is a veteran discharged for any reason, an active duty servicemember, a current or former United States defense contractor, or a current or former military member of a foreign allied country.

**Section 3** amends s. 948.16, F.S., to clarify that **misdemeanor** pretrial intervention programs extend to any person charged with a misdemeanor who is a veteran discharged for any reason, an active duty servicemember, a current or former United States defense contractor, or a current or former military member of a foreign allied country.

**Section 4** amends s. 948.21, F.S., to clarify that a court may impose a **condition of probation or community control** requiring participation in a treatment program to any person who is a veteran discharged for any reason, an active duty servicemember, a current or former United States defense contractor, or a current or former military member of a foreign allied country.

**Section 5** provides the bill takes effect on October 1, 2020.

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<sup>27</sup> *Id.* at 50.

<sup>28</sup> *Id.* at 52.

<sup>29</sup> Except the more serious felony offenses listed in s. 948.06(8)(c), F.S.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Adults who participate in specialty court programs such as Veterans' Court may have to pay a fee, depending on the guidelines established by each individual judicial circuit. The participant may also have to pay restitution as part of the program. Additionally, the goal is to divert individuals away from costly incarceration and into more appropriate settings for treatment. This often allows individuals to remain employed which can have far-reaching positive economic and societal impacts.

## C. Government Sector Impact:

The bill's expansion of eligible veterans and other military-related individuals (contractors and allied country military members) for purposes of veterans' courts will increase the number of people eligible to participate in veterans' court programs, which will likely increase the costs associated with these programs. While these individuals are already in the court system, problem solving courts are more time consuming than felony or misdemeanor court. Admissions to veterans' court are discretionary and courts would only be able to admit persons up to their program capacity which is limited by the amount of state funds (and local match) appropriated to such programs.



Other factors to consider include the additional workload associated with the Public Defender and State Attorney Offices. In general, specialty court programs are more intensive and require more appearances in front of judges. These costs may be offset to the extent that the need for prison beds is reduced by diversion to veterans' court programs. Recidivism rates are lower for participants of problem-solving courts overall.

Accordingly, the bill does not have a fiscal impact on state funds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 394.47891, 948.08, 948.16, and 948.21.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

By Senator Gainer

2-00872-19

2019910\_\_

1                                   A bill to be entitled  
2           An act relating to court-ordered treatment programs;  
3           amending s. 394.47891, F.S.; providing that veterans  
4           who were discharged or released under any condition,  
5           individuals who are current or former United States  
6           Department of Defense contractors, and individuals who  
7           are current or former military members of a foreign  
8           allied country are eligible in a certain Military  
9           Veterans and Servicemembers Court Program; amending s.  
10          948.08, F.S.; authorizing a person who is charged with  
11          a certain felony and identified as a veteran who is  
12          discharged or released under any condition, an  
13          individual who is a current or former United States  
14          Department of Defense contractor, or an individual who  
15          is a current or former military member of a foreign  
16          allied country to be eligible for voluntary admission  
17          into a pretrial veterans' treatment intervention  
18          program under certain circumstances; amending s.  
19          948.16, F.S.; authorizing a veteran who is discharged  
20          or released under any condition, an individual who is  
21          a current or former United States Department of  
22          Defense contractor, or an individual who is a current  
23          or former military member of a foreign allied country  
24          and who is charged with a misdemeanor to be eligible  
25          for voluntary admission into a misdemeanor pretrial  
26          veterans' treatment intervention program under certain  
27          circumstances; amending s. 948.21, F.S.; authorizing  
28          the court to impose a condition requiring a  
29          probationer or community controllee who is a veteran

2-00872-19

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30 discharged or released under any condition, an  
31 individual who is a current or former United States  
32 Department of Defense contractor, or an individual who  
33 is a current or former military member of a foreign  
34 allied country to participate in a certain treatment  
35 program under certain circumstances; providing an  
36 effective date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Section 394.47891, Florida Statutes, is amended  
41 to read:

42 394.47891 Military veterans and servicemembers court  
43 programs.—The chief judge of each judicial circuit may establish  
44 a Military Veterans and Servicemembers Court Program under which  
45 veterans, as defined in s. 1.01; ~~including~~ veterans who were  
46 discharged or released under any condition; a general discharge,  
47 and servicemembers, as defined in s. 250.01; individuals who are  
48 current or former United States Department of Defense  
49 contractors; and individuals who are current or former military  
50 members of a foreign allied country, who are charged or  
51 convicted of a criminal offense, and who suffer from a military-  
52 related mental illness, traumatic brain injury, substance abuse  
53 disorder, or psychological problem can be sentenced in  
54 accordance with chapter 921 in a manner that appropriately  
55 addresses the severity of the mental illness, traumatic brain  
56 injury, substance abuse disorder, or psychological problem  
57 through services tailored to the individual needs of the  
58 participant. Entry into any Military Veterans and Servicemembers

2-00872-19

2019910\_\_

59 Court Program must be based upon the sentencing court's  
60 assessment of the defendant's criminal history, military  
61 service, substance abuse treatment needs, mental health  
62 treatment needs, amenability to the services of the program, the  
63 recommendation of the state attorney and the victim, if any, and  
64 the defendant's agreement to enter the program.

65 Section 2. Paragraph (a) of subsection (7) of section  
66 948.08, Florida Statutes, is amended to read:

67 948.08 Pretrial intervention program.—

68 (7) (a) Notwithstanding any provision of this section, a  
69 person who is charged with a felony, other than a felony listed  
70 in s. 948.06(8)(c), and identified as a veteran, as defined in  
71 s. 1.01; ~~including~~ a veteran who is discharged or released  
72 under any condition; a ~~general discharge~~, or servicemember, as  
73 defined in s. 250.01; an individual who is a current or former  
74 United States Department of Defense contractor; or an individual  
75 who is a current or former military member of a foreign allied  
76 country, who suffers from a military service-related mental  
77 illness, traumatic brain injury, substance abuse disorder, or  
78 psychological problem, ~~is~~ eligible for voluntary admission into  
79 a pretrial veterans' treatment intervention program approved by  
80 the chief judge of the circuit, upon motion of either party or  
81 the court's own motion, except:

82 1. If a defendant was previously offered admission to a  
83 pretrial veterans' treatment intervention program at any time  
84 before trial and the defendant rejected that offer on the  
85 record, the court may deny the defendant's admission to such a  
86 program.

87 2. If a defendant previously entered a court-ordered

2-00872-19

2019910\_\_

88 veterans' treatment program, the court may deny the defendant's  
89 admission into the pretrial veterans' treatment program.

90 Section 3. Paragraph (a) of subsection (2) of section  
91 948.16, Florida Statutes, is amended to read:

92 948.16 Misdemeanor pretrial substance abuse education and  
93 treatment intervention program; misdemeanor pretrial veterans'  
94 treatment intervention program; misdemeanor pretrial mental  
95 health court program.—

96 (2) (a) A veteran, as defined in s. 1.01~~;~~; ~~including a~~  
97 ~~veteran who is discharged or released under any condition; a~~  
98 ~~general discharge, or servicemember, as defined in s. 250.01; an~~  
99 individual who is a current or former United States Department  
100 of Defense contractor; or an individual who is a current or  
101 former military member of a foreign allied country, who suffers  
102 from a military service-related mental illness, traumatic brain  
103 injury, substance abuse disorder, or psychological problem, and  
104 who is charged with a misdemeanor is eligible for voluntary  
105 admission into a misdemeanor pretrial veterans' treatment  
106 intervention program approved by the chief judge of the circuit,  
107 for a period based on the program's requirements and the  
108 treatment plan for the offender, upon motion of either party or  
109 the court's own motion. However, the court may deny the  
110 defendant admission into a misdemeanor pretrial veterans'  
111 treatment intervention program if the defendant has previously  
112 entered a court-ordered veterans' treatment program.

113 Section 4. Subsection (2) of section 948.21, Florida  
114 Statutes, is amended to read:

115 948.21 Condition of probation or community control;  
116 military servicemembers and veterans.—

2-00872-19

2019910\_\_

117 (2) Effective for a probationer or community controllee  
118 whose crime is committed on or after July 1, 2016, and who is a  
119 veteran, as defined in s. 1.01;~~including~~ a veteran who is  
120 discharged or released under any condition; a ~~general discharge,~~  
121 ~~or~~ servicemember, as defined in s. 250.01; an individual who is  
122 a current or former United States Department of Defense  
123 contractor; or an individual who is a current or former military  
124 member of a foreign allied country, who suffers from a military  
125 service-related mental illness, traumatic brain injury,  
126 substance abuse disorder, or psychological problem, the court  
127 may, in addition to any other conditions imposed, impose a  
128 condition requiring the probationer or community controllee to  
129 participate in a treatment program capable of treating the  
130 probationer or community controllee's mental illness, traumatic  
131 brain injury, substance abuse disorder, or psychological  
132 problem.

133 Section 5. This act shall take effect October 1, 2020.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Finance and Tax, *Chair*  
Agriculture, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on Criminal  
and Civil Justice  
Military and Veterans Affairs and Space

### SENATOR GEORGE B. GAINER

2nd District

March 4, 2019

Re: SB 910

Dear Chair Brandes,

I am respectfully requesting Senate Bill 910, related to Court Ordered Treatment Programs, be placed on the agenda for the next meeting of the Appropriations Subcommittee on Criminal and Civil Justice.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in blue ink that reads "George B. Gainer".

Senator George Gainer  
District 2

Cc. PK Jameson, Lisa Roberts, Zachary Hubbard, Melissa Meshil, Vanessa Thompson

#### REPLY TO:

- 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- 302 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002
- Northwest Florida State College, 100 East College Boulevard, Building 330, Rooms 105 and 112, Niceville, Florida 32578 (850) 747-5454

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/19/19

*Meeting Date*

910

*Bill Number (if applicable)*

Topic Veterans Court

*Amendment Barcode (if applicable)*

Name Carlos Martinez

Job Title Public Defender, 11th Judicial Circuit

Address 1320 NW 14th St.

Phone (305) 545-1900

*Street*

Miami

FL

33125

Email cmartinex@pdmiami.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Public Defender Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/19/19

Meeting Date

910

Bill Number (if applicable)

Topic Court-ordered Treatment Programs

Amendment Barcode (if applicable)

Name Judge Steven Leifman

Job Title Chair, Steering Committee on Problem-Solving Courts

Address 175 NW 1st Ave.

Phone 305-349-7000

Street

Miami

FL

33128

Email

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Steering Committee on Problem-Solving Courts

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 19, 2019

Meeting Date

910

Bill Number (if applicable)

Topic VETERAN TREATMENT COURTS

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title president

Address 319 E Park Ave

Street

Phone 850/ 570-1967

Tallahassee, Fl

City

State

32301

Zip

Email danbhendrickson@comcast.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

# CourtSmart Tag Report

**Room:** LL 37

**Case No.:**

**Type:**

**Caption:** Senate Appropriations Subcommittee on Criminal and Civil Justice

**Judge:**

**Started:** 3/19/2019 10:04:37 AM

**Ends:** 3/19/2019 10:15:29 AM

**Length:** 00:10:53

10:04:42 AM Call to Order - Sen. Brandes (Chair)  
10:04:46 AM Roll Call  
10:04:54 AM Quorum Present  
10:05:15 AM Tab 1 -SB 782  
10:05:19 AM Sen. Simmons  
10:06:18 AM Sen. Brandes  
10:06:31 AM Carlos Martinez, Public Defender, 11th Judicial Court  
10:08:11 AM Sen. Brandes  
10:08:20 AM Sen. Simmons  
10:08:25 AM Sen. Brandes  
10:08:28 AM Roll Call SB 782  
10:08:46 AM SB 782 reported favorable  
10:08:53 AM Sen. Brandes  
10:08:59 AM Tab 2 - SB 910  
10:09:02 AM Sen. Gainer  
10:11:58 AM Sen. Bracy (Chair)  
10:12:14 AM Carlos Martinez, Public Defender, 11th Judicial Court (waive in support)  
10:12:21 AM Judge Steven Leifman, Chair, Steering Committee on Problem-Solving Courts (waive in support)  
10:12:26 AM Dan Hendrickson, President, Tallahassee Veterans Legal Collaborative  
10:13:35 AM Sen. Bracy  
10:13:44 AM Sen. Gainer  
10:13:47 AM Sen. Bracy  
10:13:51 AM Roll Call  
10:14:11 AM SB 910 reported favorably  
10:14:19 AM Sen. Bracy  
10:15:11 AM Sen. Rouson moves to adjourn