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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/10/2011	.	
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The Committee on Criminal Justice (Dean) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "T. Patt Maney Veterans' Treatment Intervention Act."

Section 2. Section 921.00242, Florida Statutes, is created to read:

921.00242 Convicted military veterans; posttraumatic stress disorder, traumatic brain injury, substance use disorder, or psychological problems from service; treatment services.-

(1) If a circuit or county court finds that a defendant has



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13 committed a criminal offense, the court must hold a veterans
14 status hearing prior to sentencing if the defendant has alleged
15 that he or she committed the offense as a result of
16 posttraumatic stress disorder, traumatic brain injury, substance
17 use disorder, or psychological problems stemming from service in
18 a combat theater in the United States military.

19 (2) At a veterans status hearing conducted as required by
20 subsection (1), the court shall determine whether the defendant
21 was a member of the military forces of the United States who
22 served in a combat theater and assess whether the defendant
23 suffers from posttraumatic stress disorder, traumatic brain
24 injury, substance use disorder, or psychological problems as a
25 result of that service. The defendant shall bear the burden of
26 proof at the hearing.

27 (3) If the court concludes that the defendant is a person
28 described in subsection (2) who is eligible for probation or
29 community control and the court places the defendant on county
30 or state probation or into community control, the court may
31 order the defendant into a local, state, federal, or private
32 nonprofit treatment program as a condition of probation or
33 community control provided the defendant agrees to participate
34 in the program and the court determines that an appropriate
35 treatment program exists.

36 (4) A defendant who is placed on county or state probation
37 or into community control and committed to a residential
38 treatment program under this section shall earn sentence credits
39 for the actual time he or she serves in the residential
40 treatment program if the court makes a written finding that it
41 would otherwise have sentenced the defendant to incarceration



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42 except for the fact that the defendant is a person described in
43 subsection (2).

44 (5) In making an order under this section to commit a
45 defendant to an treatment program, whenever possible the court
46 shall place the defendant in a treatment program that has a
47 history of successfully treating combat veterans who suffer from
48 posttraumatic stress disorder, traumatic brain injury, substance
49 use disorder, or psychological problems as a result of that
50 service. The court shall give preference to treatment programs
51 for which the veteran is eligible through the United States
52 Department of Veterans Affairs or the Florida Department of
53 Veterans Affairs.

54 Section 3. Subsection (7) of section 948.08, Florida
55 Statutes, is renumbered as subsection (8), and a new subsection
56 (7) is added to that section, to read:

57 948.08 Pretrial intervention program.—

58 (7) (a) For purposes of this subsection, the term
59 “nonviolent felony” means a third degree felony violation of
60 chapter 810 or any other felony offense that is not a forcible
61 felony as defined in s. 776.08. Notwithstanding any provision of
62 this section, a person who is charged with a nonviolent felony
63 and is identified as a member or former member of the military
64 forces of the United States who served in a combat theater and
65 who suffers from posttraumatic stress disorder, traumatic brain
66 injury, substance use disorder, or psychological problems as a
67 result of that service is eligible for voluntary admission into
68 a pretrial veterans treatment intervention program approved by
69 the chief judge of the circuit, upon motion of either party or
70 the court’s own motion, except:



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71 1. If a defendant was previously offered admission to a
72 pretrial veterans treatment intervention program at any time
73 prior to trial and the defendant rejected that offer on the
74 record, then the court or the state attorney may deny the
75 defendant's admission to such a program.

76 2. If a defendant previously entered a court-ordered
77 veterans treatment program, then the court or the state attorney
78 may deny the defendant's admission into the pretrial veterans
79 treatment program.

80 3. If the state attorney believes that the facts and
81 circumstances of the case suggest the defendant's involvement in
82 the selling of controlled substances, the court shall hold a
83 preadmission hearing. If the state attorney establishes, by a
84 preponderance of the evidence at such hearing, that the
85 defendant was involved in the selling of controlled substances,
86 the court shall deny the defendant's admission into a pretrial
87 intervention program.

88 (b) While enrolled in a pretrial intervention program
89 authorized by this subsection, the participant is subject to a
90 coordinated strategy developed by a veterans treatment
91 intervention team. The coordinated strategy should be modeled
92 after the therapeutic jurisprudence principles and key
93 components in s. 397.334(4), with treatment specific to the
94 needs of veterans. The coordinated strategy may include a
95 protocol of sanctions that may be imposed upon the participant
96 for noncompliance with program rules. The protocol of sanctions
97 may include, but is not limited to, placement in a treatment
98 program offered by a licensed service provider or in a jail-
99 based treatment program or serving a period of incarceration



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100 within the time limits established for contempt of court. The
101 coordinated strategy must be provided in writing to the
102 participant before the participant agrees to enter into a
103 pretrial veterans treatment intervention program or other
104 pretrial intervention program. Any person whose charges are
105 dismissed after successful completion of the pretrial veterans
106 treatment intervention program, if otherwise eligible, may have
107 his or her arrest record and plea of nolo contendere to the
108 dismissed charges expunged under s. 943.0585.

109 (c) At the end of the pretrial intervention period, the
110 court shall consider the recommendation of the administrator
111 pursuant to subsection (5) and the recommendation of the state
112 attorney as to disposition of the pending charges. The court
113 shall determine, by written finding, whether the defendant has
114 successfully completed the pretrial intervention program. If the
115 court finds that the defendant has not successfully completed
116 the pretrial intervention program, the court may order the
117 person to continue in education and treatment, which may include
118 treatment programs offered by licensed service providers or
119 jail-based treatment programs, or order that the charges revert
120 to normal channels for prosecution. The court shall dismiss the
121 charges upon a finding that the defendant has successfully
122 completed the pretrial intervention program.

123 (8)(7) The department may contract for the services and
124 facilities necessary to operate pretrial intervention programs.

125 Section 4. Section 948.16, Florida Statutes, is amended to
126 read:

127 948.16 Misdemeanor pretrial substance abuse education and
128 treatment intervention program; misdemeanor pretrial veterans



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129 treatment intervention program.-

130 (1) (a) A person who is charged with a misdemeanor for
131 possession of a controlled substance or drug paraphernalia under
132 chapter 893, and who has not previously been convicted of a
133 felony nor been admitted to a pretrial program, is eligible for
134 voluntary admission into a misdemeanor pretrial substance abuse
135 education and treatment intervention program, including a
136 treatment-based drug court program established pursuant to s.
137 397.334, approved by the chief judge of the circuit, for a
138 period based on the program requirements and the treatment plan
139 for the offender, upon motion of either party or the court's own
140 motion, except, if the state attorney believes the facts and
141 circumstances of the case suggest the defendant is involved in
142 dealing and selling controlled substances, the court shall hold
143 a preadmission hearing. If the state attorney establishes, by a
144 preponderance of the evidence at such hearing, that the
145 defendant was involved in dealing or selling controlled
146 substances, the court shall deny the defendant's admission into
147 the pretrial intervention program.

148 (b) While enrolled in a pretrial intervention program
149 authorized by this section, the participant is subject to a
150 coordinated strategy developed by a drug court team under s.
151 397.334(4). The coordinated strategy may include a protocol of
152 sanctions that may be imposed upon the participant for
153 noncompliance with program rules. The protocol of sanctions may
154 include, but is not limited to, placement in a substance abuse
155 treatment program offered by a licensed service provider as
156 defined in s. 397.311 or in a jail-based treatment program or
157 serving a period of incarceration within the time limits



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158 established for contempt of court. The coordinated strategy must
159 be provided in writing to the participant before the participant
160 agrees to enter into a pretrial treatment-based drug court
161 program or other pretrial intervention program. Any person whose
162 charges are dismissed after successful completion of the
163 treatment-based drug court program, if otherwise eligible, may
164 have his or her arrest record and plea of nolo contendere to the
165 dismissed charges expunged under s. 943.0585.

166 (2) (a) A member or former member of the military forces of
167 the United States who served in a combat theater and who suffers
168 from posttraumatic stress disorder, traumatic brain injury,
169 substance use disorder, or psychological problems as a result of
170 that service who is charged with a misdemeanor, and who has not
171 previously been admitted to a veterans treatment intervention
172 program, is eligible for voluntary admission into a misdemeanor
173 pretrial veterans treatment intervention program approved by the
174 chief judge of the circuit, for a period based on the program
175 requirements and the treatment plan for the offender, upon
176 motion of either party or the court's own motion.

177 (b) While enrolled in a pretrial intervention program
178 authorized by this section, the participant is subject to a
179 coordinated strategy developed by a veterans treatment
180 intervention team. The coordinated strategy should be modeled
181 after the therapeutic jurisprudence principles and key
182 components in s. 397.334(4), with treatment specific to the
183 needs of veterans. The coordinated strategy may include a
184 protocol of sanctions that may be imposed upon the participant
185 for noncompliance with program rules. The protocol of sanctions
186 may include, but is not limited to, placement in a treatment



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187 program offered by a licensed service provider or in a jail-
188 based treatment program or serving a period of incarceration
189 within the time limits established for contempt of court. The
190 coordinated strategy must be provided in writing to the
191 participant before the participant agrees to enter into a
192 misdemeanor pretrial veterans treatment intervention program or
193 other pretrial intervention program. Any person whose charges
194 are dismissed after successful completion of the misdemeanor
195 pretrial veterans treatment intervention program, if otherwise
196 eligible, may have his or her arrest record and plea of nolo
197 contendere to the dismissed charges expunged under s. 943.0585.

198 ~~(3)(2)~~ At the end of the pretrial intervention period, the
199 court shall consider the recommendation of the treatment program
200 and the recommendation of the state attorney as to disposition
201 of the pending charges. The court shall determine, by written
202 finding, whether the defendant successfully completed the
203 pretrial intervention program. Notwithstanding the coordinated
204 strategy developed by a drug court team pursuant to s.
205 397.334(4) or by the veterans treatment intervention team, if
206 the court finds that the defendant has not successfully
207 completed the pretrial intervention program, the court may order
208 the person to continue in education and treatment or return the
209 charges to the criminal docket for prosecution. The court shall
210 dismiss the charges upon finding that the defendant has
211 successfully completed the pretrial intervention program.

212 ~~(4)(3)~~ Any public or private entity providing a pretrial
213 substance abuse education and treatment program under this
214 section shall contract with the county or appropriate
215 governmental entity. The terms of the contract shall include,



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216 but not be limited to, the requirements established for private
217 entities under s. 948.15(3).

218 Section 5. This act shall take effect July 1, 2011.

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220 ===== T I T L E A M E N D M E N T =====

221 And the title is amended as follows:

222 Delete everything before the enacting clause
223 and insert:

224 A bill to be entitled

225 An act relating to military veterans convicted of
226 criminal offenses; creating s. 921.00242, F.S.;
227 providing that persons found to have committed
228 criminal offenses who allege that the offenses
229 resulted from posttraumatic stress disorder, traumatic
230 brain injury, substance use disorder, or psychological
231 problems stemming from service in a combat theater in
232 the United States military may have a hearing on that
233 issue before sentencing; providing that defendants
234 found to have committed offenses due to such causes
235 and who are eligible for probation or community
236 control may be placed in treatment programs in certain
237 circumstances; providing for sentence credit for
238 defendants placed in treatment who would have
239 otherwise been incarcerated; providing a preference
240 for treatment programs with histories of successfully
241 treating such combat veterans; amending s. 948.08;
242 creating a pretrial veterans treatment intervention
243 program; amending s. 948.16; creating a misdemeanor
244 pretrial veterans treatment intervention program;



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providing an effective date.