

By the Committee on Criminal Justice; and Senators Bennett, Gaetz, and Dockery

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1 A bill to be entitled
2 An act relating to military veterans convicted of
3 criminal offenses; providing a short title; creating
4 s. 921.00242, F.S.; providing that persons found to
5 have committed criminal offenses who allege that the
6 offenses resulted from posttraumatic stress disorder,
7 traumatic brain injury, substance use disorder, or
8 psychological problems stemming from service in a
9 combat theater in the United States military may have
10 a hearing on that issue before sentencing; providing
11 that defendants found to have committed offenses due
12 to such causes and who are eligible for probation or
13 community control may be placed in treatment programs
14 in certain circumstances; providing for sentence
15 credit for defendants placed in treatment who would
16 have otherwise been incarcerated; providing a
17 preference for treatment programs that have histories
18 of successfully treating such combat veterans;
19 amending s. 948.08, F.S.; creating a pretrial
20 veterans' treatment intervention program; providing
21 requirements for a defendant to be voluntarily
22 admitted to the pretrial program; providing certain
23 exceptions to such admission; providing for the
24 disposition of pending charges following a defendant's
25 completion of the pretrial intervention program;
26 providing for the charges to be expunged under certain
27 circumstances; amending s. 948.16, F.S.; creating a
28 misdemeanor pretrial veterans' treatment intervention
29 program; providing requirements for voluntary

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30 admission to the misdemeanor pretrial program;
31 providing for the misdemeanor charges to be expunged
32 under certain circumstances; exempting treatment
33 services provided by the Department of Veterans'
34 Affairs or the United States Department of Veterans
35 Affairs from certain contract requirements; providing
36 an effective date.

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

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

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

44 921.00242 Convicted military veterans; posttraumatic stress
45 disorder, traumatic brain injury, substance use disorder, or
46 psychological problems from service; treatment services.-

47 (1) If a circuit or county court finds that a defendant has
48 committed a criminal offense, the court must hold a veterans'
49 status hearing prior to sentencing if the defendant has alleged
50 that he or she committed the offense as a result of
51 posttraumatic stress disorder, traumatic brain injury, substance
52 use disorder, or psychological problems stemming from service in
53 a combat theater in the United States military.

54 (2) At a veterans' status hearing conducted as required by
55 subsection (1), the court shall determine whether the defendant
56 was a member of the military forces of the United States who
57 served in a combat theater and assess whether the defendant
58 suffers from posttraumatic stress disorder, traumatic brain

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59 injury, substance use disorder, or psychological problems as a
60 result of that service. The defendant shall bear the burden of
61 proof at the hearing.

62 (3) If the court concludes that the defendant is a person
63 described in subsection (2) who is eligible for probation or
64 community control and the court places the defendant on county
65 or state probation or into community control, the court may
66 order the defendant into a local, state, federal, or private
67 nonprofit treatment program as a condition of probation or
68 community control if the defendant agrees to participate in the
69 program and the court determines that an appropriate treatment
70 program exists.

71 (4) A defendant who is placed on county or state probation
72 or into community control and committed to a residential
73 treatment program under this section shall earn sentence credits
74 for the actual time he or she serves in the residential
75 treatment program if the court makes a written finding that it
76 would otherwise have sentenced the defendant to incarceration
77 except for the fact that the defendant is a person described in
78 subsection (2).

79 (5) In making an order under this section to commit a
80 defendant to an treatment program, whenever possible the court
81 shall place the defendant in a treatment program that has a
82 history of successfully treating combat veterans who suffer from
83 posttraumatic stress disorder, traumatic brain injury, substance
84 use disorder, or psychological problems as a result of that
85 service. The court shall give preference to treatment programs
86 for which the veteran is eligible through the United States
87 Department of Veterans Affairs or the Department of Veterans'

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88 Affairs.

89 Section 3. Present subsection (7) of section 948.08,
90 Florida Statutes, is renumbered as subsection (8), and a new
91 subsection (7) is added to that section, to read:

92 948.08 Pretrial intervention program.—

93 (7) (a) As used in this subsection, the term "disqualifying
94 felony" means any offense that is listed in s. 948.06(8) (c).
95 Notwithstanding any provision of this section, a person who is
96 charged with a disqualifying felony and is identified as a
97 member or former member of the military forces of the United
98 States who served in a combat theater and who suffers from
99 posttraumatic stress disorder, traumatic brain injury, substance
100 use disorder, or psychological problems as a result of that
101 service is eligible for voluntary admission into a pretrial
102 veterans' treatment intervention program approved by the chief
103 judge of the circuit, upon motion of either party or the court's
104 own motion, except:

105 1. If a defendant was previously offered admission to a
106 pretrial veterans' treatment intervention program at any time
107 prior to trial and the defendant rejected that offer on the
108 record, the court may deny the defendant's admission to such a
109 program.

110 2. If a defendant previously entered a court-ordered
111 veterans' treatment program, the court may deny the defendant's
112 admission into the pretrial veterans' treatment program.

113 3. If the state attorney believes that the facts and
114 circumstances of the case suggest the defendant's involvement in
115 the selling of controlled substances, the court shall hold a
116 preadmission hearing. If the state attorney establishes, by a

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117 preponderance of the evidence at such hearing, that the
118 defendant was involved in the selling of controlled substances,
119 the court shall deny the defendant's admission into a pretrial
120 intervention program.

121 (b) While enrolled in a pretrial intervention program
122 authorized by this subsection, the participant is subject to a
123 coordinated strategy developed by a veterans' treatment
124 intervention team. The coordinated strategy should be modeled
125 after the therapeutic jurisprudence principles and key
126 components in s. 397.334(4), with treatment specific to the
127 needs of veterans. The coordinated strategy may include a
128 protocol of sanctions that may be imposed upon the participant
129 for noncompliance with program rules. The protocol of sanctions
130 may include, but is not limited to, placement in a treatment
131 program offered by a licensed service provider or in a jail-
132 based treatment program or serving a period of incarceration
133 within the time limits established for contempt of court. The
134 coordinated strategy must be provided in writing to the
135 participant before the participant agrees to enter into a
136 pretrial veterans' treatment intervention program or other
137 pretrial intervention program. Any person whose charges are
138 dismissed after successful completion of the pretrial veterans'
139 treatment intervention program, if otherwise eligible, may have
140 his or her arrest record and plea of nolo contendere to the
141 dismissed charges expunged under s. 943.0585.

142 (c) At the end of the pretrial intervention period, the
143 court shall consider the recommendation of the administrator
144 pursuant to subsection (5) and the recommendation of the state
145 attorney as to disposition of the pending charges. The court

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146 shall determine, by written finding, whether the defendant has
147 successfully completed the pretrial intervention program. If the
148 court finds that the defendant has not successfully completed
149 the pretrial intervention program, the court may order the
150 person to continue in education and treatment, which may include
151 treatment programs offered by licensed service providers or
152 jail-based treatment programs, or order that the charges revert
153 to normal channels for prosecution. The court shall dismiss the
154 charges upon a finding that the defendant has successfully
155 completed the pretrial intervention program.

156 Section 4. Section 948.16, Florida Statutes, is amended to
157 read:

158 948.16 Misdemeanor pretrial substance abuse education and
159 treatment intervention program; misdemeanor pretrial veterans'
160 treatment intervention program.-

161 (1) (a) A person who is charged with a misdemeanor for
162 possession of a controlled substance or drug paraphernalia under
163 chapter 893, and who has not previously been convicted of a
164 felony nor been admitted to a pretrial program, is eligible for
165 voluntary admission into a misdemeanor pretrial substance abuse
166 education and treatment intervention program, including a
167 treatment-based drug court program established pursuant to s.
168 397.334, approved by the chief judge of the circuit, for a
169 period based on the program requirements and the treatment plan
170 for the offender, upon motion of either party or the court's own
171 motion, except, if the state attorney believes the facts and
172 circumstances of the case suggest the defendant is involved in
173 dealing and selling controlled substances, the court shall hold
174 a preadmission hearing. If the state attorney establishes, by a

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175 preponderance of the evidence at such hearing, that the
176 defendant was involved in dealing or selling controlled
177 substances, the court shall deny the defendant's admission into
178 the pretrial intervention program.

179 (b) While enrolled in a pretrial intervention program
180 authorized by this section, the participant is subject to a
181 coordinated strategy developed by a drug court team under s.
182 397.334(4). The coordinated strategy may include a protocol of
183 sanctions that may be imposed upon the participant for
184 noncompliance with program rules. The protocol of sanctions may
185 include, but is not limited to, placement in a substance abuse
186 treatment program offered by a licensed service provider as
187 defined in s. 397.311 or in a jail-based treatment program or
188 serving a period of incarceration within the time limits
189 established for contempt of court. The coordinated strategy must
190 be provided in writing to the participant before the participant
191 agrees to enter into a pretrial treatment-based drug court
192 program or other pretrial intervention program. Any person whose
193 charges are dismissed after successful completion of the
194 treatment-based drug court program, if otherwise eligible, may
195 have his or her arrest record and plea of nolo contendere to the
196 dismissed charges expunged under s. 943.0585.

197 (2) (a) A member or former member of the military forces of
198 the United States who served in a combat theater and who suffers
199 from posttraumatic stress disorder, traumatic brain injury,
200 substance use disorder, or psychological problems as a result of
201 that service who is charged with a misdemeanor is eligible for
202 voluntary admission into a misdemeanor pretrial veterans'
203 treatment intervention program approved by the chief judge of

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204 the circuit, for a period based on the program requirements and
205 the treatment plan for the offender, upon motion of either party
206 or the court's own motion. However, the court may deny the
207 defendant admission into a misdemeanor pretrial veterans'
208 treatment intervention program if the defendant has previously
209 entered a court-ordered veterans' treatment program.

210 (b) While enrolled in a pretrial intervention program
211 authorized by this section, the participant is subject to a
212 coordinated strategy developed by a veterans' treatment
213 intervention team. The coordinated strategy should be modeled
214 after the therapeutic jurisprudence principles and key
215 components in s. 397.334(4), with treatment specific to the
216 needs of veterans. The coordinated strategy may include a
217 protocol of sanctions that may be imposed upon the participant
218 for noncompliance with program rules. The protocol of sanctions
219 may include, but is not limited to, placement in a treatment
220 program offered by a licensed service provider or in a jail-
221 based treatment program or serving a period of incarceration
222 within the time limits established for contempt of court. The
223 coordinated strategy must be provided in writing to the
224 participant before the participant agrees to enter into a
225 misdemeanor pretrial veterans' treatment intervention program or
226 other pretrial intervention program. Any person whose charges
227 are dismissed after successful completion of the misdemeanor
228 pretrial veterans' treatment intervention program, if otherwise
229 eligible, may have his or her arrest record and plea of nolo
230 contendere to the dismissed charges expunged under s. 943.0585.

231 (3) ~~(2)~~ At the end of the pretrial intervention period, the
232 court shall consider the recommendation of the treatment program

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233 and the recommendation of the state attorney as to disposition
234 of the pending charges. The court shall determine, by written
235 finding, whether the defendant successfully completed the
236 pretrial intervention program. Notwithstanding the coordinated
237 strategy developed by a drug court team pursuant to s.
238 397.334(4) or by the veterans' treatment intervention team, if
239 the court finds that the defendant has not successfully
240 completed the pretrial intervention program, the court may order
241 the person to continue in education and treatment or return the
242 charges to the criminal docket for prosecution. The court shall
243 dismiss the charges upon finding that the defendant has
244 successfully completed the pretrial intervention program.

245 (4)(3) Any public or private entity providing a pretrial
246 substance abuse education and treatment program under this
247 section shall contract with the county or appropriate
248 governmental entity. The terms of the contract shall include,
249 but not be limited to, the requirements established for private
250 entities under s. 948.15(3). This requirement does not apply to
251 services provided by the Department of Veterans' Affairs or the
252 United States Department of Veterans Affairs.

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