

2011138e1

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

2011138e1

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.

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

39  
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

2011138e1

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'

2011138e1

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

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

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

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

2011138e1

117 the court shall deny the defendant's admission into a pretrial  
118 intervention program.

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

140 (c) At the end of the pretrial intervention period, the  
141 court shall consider the recommendation of the administrator  
142 pursuant to subsection (5) and the recommendation of the state  
143 attorney as to disposition of the pending charges. The court  
144 shall determine, by written finding, whether the defendant has  
145 successfully completed the pretrial intervention program. If the

2011138e1

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

154 Section 4. Section 948.16, Florida Statutes, is amended to  
155 read:

156 948.16 Misdemeanor pretrial substance abuse education and  
157 treatment intervention program; misdemeanor pretrial veterans'  
158 treatment intervention program.—

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

2011138e1

175 substances, the court shall deny the defendant's admission into  
176 the pretrial intervention program.

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

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

2011138e1

204 or the court's own motion. However, the court may deny the  
205 defendant admission into a misdemeanor pretrial veterans'  
206 treatment intervention program if the defendant has previously  
207 entered a court-ordered veterans' treatment program.

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

229 (3)~~(2)~~ At the end of the pretrial intervention period, the  
230 court shall consider the recommendation of the treatment program  
231 and the recommendation of the state attorney as to disposition  
232 of the pending charges. The court shall determine, by written



2011138e1

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

243 (4) ~~(3)~~ Any public or private entity providing a pretrial  
244 substance abuse education and treatment program under this  
245 section shall contract with the county or appropriate  
246 governmental entity. The terms of the contract shall include,  
247 but not be limited to, the requirements established for private  
248 entities under s. 948.15(3). This requirement does not apply to  
249 services provided by the Department of Veterans' Affairs or the  
250 United States Department of Veterans Affairs.

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