

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

29 |       misdemeanor charges to be expunged under certain  
 30 |       circumstances; exempting treatment services provided by  
 31 |       the Department of Veterans' Affairs or the United States  
 32 |       Department of Veterans Affairs from certain contract  
 33 |       requirements; providing an effective date.

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35 | Be It Enacted by the Legislature of the State of Florida:

36 |

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

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

41 |       921.00242 Convicted military veterans; posttraumatic  
 42 | stress disorder, traumatic brain injury, substance use disorder,  
 43 | or psychological problems from service; treatment services.-

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

51 |       (2) At a veterans' status hearing conducted as required by  
 52 | subsection (1), the court shall determine whether the defendant  
 53 | was a member of the military forces of the United States who  
 54 | served in a combat theater and assess whether the defendant  
 55 | suffers from posttraumatic stress disorder, traumatic brain  
 56 | injury, substance use disorder, or psychological problems as a

57 result of that service. The defendant shall bear the burden of  
58 proof at the hearing.

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

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

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

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84 Department of Veterans Affairs or the Department of Veterans'  
85 Affairs.

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

89 948.08 Pretrial intervention program.—

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

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

105 2. If a defendant previously entered a court-ordered  
106 veterans' treatment program, the court may deny the defendant's  
107 admission into the pretrial veterans' treatment program.

108 3. If the state attorney believes that the facts and  
109 circumstances of the case suggest the defendant's involvement in  
110 selling controlled substances, the court shall hold a  
111 preadmission hearing. If the state attorney establishes, by a

112 preponderance of the evidence at such hearing, that the  
113 defendant was involved in selling controlled substances, the  
114 court shall deny the defendant's admission into a pretrial  
115 intervention program.

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

137 (c) At the end of the pretrial intervention period, the  
138 court shall consider the recommendation of the administrator  
139 pursuant to subsection (5) and the recommendation of the state

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140 attorney as to disposition of the pending charges. The court  
141 shall determine, by written finding, whether the defendant has  
142 successfully completed the pretrial intervention program. If the  
143 court finds that the defendant has not successfully completed  
144 the pretrial intervention program, the court may order the  
145 person to continue in education and treatment, which may include  
146 treatment programs offered by licensed service providers or  
147 jail-based treatment programs, or order that the charges revert  
148 to normal channels for prosecution. The court shall dismiss the  
149 charges upon a finding that the defendant has successfully  
150 completed the pretrial intervention program.

151 Section 4. Section 948.16, Florida Statutes, is amended to  
152 read:

153 948.16 Misdemeanor pretrial substance abuse education and  
154 treatment intervention program; misdemeanor pretrial veterans'  
155 treatment intervention program.-

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

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168 dealing and selling controlled substances, the court shall hold  
169 a preadmission hearing. If the state attorney establishes, by a  
170 preponderance of the evidence at such hearing, that the  
171 defendant was involved in dealing or selling controlled  
172 substances, the court shall deny the defendant's admission into  
173 the pretrial intervention program.

174 (b) While enrolled in a pretrial intervention program  
175 authorized by this section, the participant is subject to a  
176 coordinated strategy developed by a drug court team under s.  
177 397.334(4). The coordinated strategy may include a protocol of  
178 sanctions that may be imposed upon the participant for  
179 noncompliance with program rules. The protocol of sanctions may  
180 include, but is not limited to, placement in a substance abuse  
181 treatment program offered by a licensed service provider as  
182 defined in s. 397.311 or in a jail-based treatment program or  
183 serving a period of incarceration within the time limits  
184 established for contempt of court. The coordinated strategy must  
185 be provided in writing to the participant before the participant  
186 agrees to enter into a pretrial treatment-based drug court  
187 program or other pretrial intervention program. Any person whose  
188 charges are dismissed after successful completion of the  
189 treatment-based drug court program, if otherwise eligible, may  
190 have his or her arrest record and plea of nolo contendere to the  
191 dismissed charges expunged under s. 943.0585.

192 (2) (a) A member or former member of the military forces of  
193 the United States who served in a combat theater and who suffers  
194 from posttraumatic stress disorder, traumatic brain injury,  
195 substance use disorder, or psychological problems as a result of

196 that service who is charged with a misdemeanor is eligible for  
197 voluntary admission into a misdemeanor pretrial veterans'  
198 treatment intervention program approved by the chief judge of  
199 the circuit, for a period based on the program requirements and  
200 the treatment plan for the offender, upon motion of either party  
201 or the court's own motion. However, the court may deny the  
202 defendant admission into a misdemeanor pretrial veterans'  
203 treatment intervention program if the defendant has previously  
204 entered a court-ordered veterans' treatment program.

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



224 eligible, may have his or her arrest record and plea of nolo  
 225 contendere to the dismissed charges expunged under s. 943.0585.

226 ~~(3)(2)~~ At the end of the pretrial intervention period, the  
 227 court shall consider the recommendation of the treatment program  
 228 and the recommendation of the state attorney as to disposition  
 229 of the pending charges. The court shall determine, by written  
 230 finding, whether the defendant successfully completed the  
 231 pretrial intervention program. Notwithstanding the coordinated  
 232 strategy developed by a drug court team pursuant to s.  
 233 397.334(4) or by the veterans' treatment intervention team, if  
 234 the court finds that the defendant has not successfully  
 235 completed the pretrial intervention program, the court may order  
 236 the person to continue in education and treatment or return the  
 237 charges to the criminal docket for prosecution. The court shall  
 238 dismiss the charges upon finding that the defendant has  
 239 successfully completed the pretrial intervention program.

240 ~~(4)(3)~~ Any public or private entity providing a pretrial  
 241 substance abuse education and treatment program under this  
 242 section shall contract with the county or appropriate  
 243 governmental entity. The terms of the contract shall include,  
 244 but not be limited to, the requirements established for private  
 245 entities under s. 948.15(3). This requirement does not apply to  
 246 services provided by the Department of Veterans' Affairs or the  
 247 United States Department of Veterans Affairs.

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