

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:

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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

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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

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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 January 1, 2012.