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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 a person found to
5 have committed a criminal offense who alleges that the
6 offense 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 a defendant found to have committed an offense
12 due to such causes and who is eligible for probation
13 or community control may be placed in a treatment
14 program in certain circumstances; providing for
15 sentence credit for a defendant placed in treatment
16 who would have otherwise been incarcerated; providing
17 a preference for treatment programs that have
18 histories of successfully treating such combat
19 veterans; amending s. 948.08, F.S.; creating a
20 pretrial veterans' treatment intervention program;
21 providing requirements for a defendant to be
22 voluntarily admitted to the pretrial program;
23 providing certain exceptions to such admission;
24 providing for the disposition of pending charges
25 following a defendant's completion of the pretrial
26 intervention program; providing for the charges to be
27 expunged under certain circumstances; amending s.
28 948.16, F.S.; creating a misdemeanor pretrial

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29 veterans' treatment intervention program; providing
 30 requirements for voluntary admission to the
 31 misdemeanor pretrial program; providing for the
 32 misdemeanor charges to be expunged under certain
 33 circumstances; exempting treatment services provided
 34 by the Department of Veterans' Affairs or the United
 35 States Department of Veterans Affairs from certain
 36 contract requirements; providing 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
 45 stress disorder, traumatic brain injury, substance use disorder,
 46 or psychological problems from service; treatment services.—

47 (1) If a circuit or county court finds that a defendant
 48 has committed a criminal offense, the court must hold a
 49 veterans' status hearing prior to sentencing if the defendant
 50 has alleged 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

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57 served in a combat theater and assess whether the defendant
58 suffers from posttraumatic stress disorder, traumatic brain
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 a 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'
 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

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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,
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 shall be subject
121 to a 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 need not be limited to, placement in a
129 treatment program offered by a licensed service provider or in a
130 jail-based treatment program or serving a period of
131 incarceration within the time limits established for contempt of
132 court. The coordinated strategy must be provided in writing to
133 the 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
 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

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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
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

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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
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 shall be subject to
210 a 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 need not be limited to, placement in a
218 treatment program offered by a licensed service provider or in a
219 jail-based treatment program or serving a period of
220 incarceration within the time limits established for contempt of
221 court. The coordinated strategy must be provided in writing to
222 the 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
 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, 2012.