

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 138

INTRODUCER: Senators Bennett, Gaetz, and Evers

SUBJECT: Military Veterans Convicted of Criminal Offenses

DATE: September 27, 2011 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|------------|----------------|-----------|------------------|
| 1. | Clodfelter | Cannon | CJ | Favorable |
| 2. | | | BC | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This bill creates the T. Patt Maney Veterans’ Treatment Intervention Act. It addresses the increasing involvement of military veterans with the criminal justice system. It allows counties to establish programs to divert a veteran who is charged with a criminal offense into an appropriate treatment program if he or she suffers from posttraumatic stress disorder (PTSD), traumatic brain injury (TBI), substance use disorder, or psychological problems stemming from military service in a combat theater. These pretrial veteran’s treatment diversion programs are modeled after existing treatment-based drug court programs. Successful completion of the program would result in dismissal of charges; lack of success could lead to prosecution through normal channels.

The bill also requires courts to hold a pre-sentencing hearing if a convicted veteran claims that his or her crime resulted from PTSD, TBI, substance use disorder, or psychological problems stemming from service in a combat theater. If the court determines that the defendant is a veteran who suffers from one of the conditions as a result of service in a combat theater, and if the defendant is otherwise eligible to be placed on community supervision, with the defendant’s agreement the court may place him or her into a treatment program for the length of the sentence. The bill encourages placement in an established treatment program with a history of successfully treating combat veterans with a history of PTSD, TBI, substance use disorder, or psychological problems. It also specifies a preference for Department of Veterans Affairs programs for which the defendant is eligible. Pretrial drug court diversion programs are funded by the state and local government. In drug court programs, the county pays for the costs of testing and treatment. If the veteran’s treatment diversion programs operate in a similar fashion, the cost of such programs will be borne by both the state and local government.

This bill creates section 921.00242 of the Florida Statutes, and amends sections 948.08 and 948.16 of the Florida Statutes.

II. Present Situation:

The Department of Corrections does not have statistics of how many of the approximately 150,000 offenders on community supervision are military veterans. However, it reports that 6,726 state prison inmates (approximately 6.6% of the total prison population) were identified as military veterans as of September 23, 2011. This includes 4,986 inmates whose claim of veteran status is unverified and 1,740 whose claim has been verified by submission of a Certificate of Release or Discharge from Active Duty (Department of Defense Form 214). The types of offenses for which these veterans are incarcerated are reflected in the following table:

| Primary Offense | Claimed Veteran Status | Verified Veteran Status | Total | % |
|--|------------------------|-------------------------|-------------|-------------|
| Murder/Manslaughter | 683 | 408 | 1091 | 16.2% |
| Sexual/Lewd Behavior | 1177 | 609 | 1786 | 26.6% |
| Robbery | 464 | 142 | 606 | 9.0% |
| Aggravated Battery/Assault, Kidnapping, Other Violent Crimes | 588 | 136 | 724 | 10.8% |
| Burglary | 521 | 144 | 665 | 9.9% |
| Property Theft/Fraud/Damage | 467 | 78 | 545 | 8.1% |
| Drugs | 671 | 128 | 799 | 11.9% |
| Weapons | 120 | 32 | 152 | 2.3% |
| Other | 295 | 63 | 358 | 5.3% |
| Total | 4986 | 1740 | 6726 | 100% |

The table indicates that a majority of veteran inmates in Florida are incarcerated for violent crimes and a lesser number for property and drug offenses. This is in contrast to the findings of the American Bar Association's Commission on Homelessness and Poverty (ABA), which cited national statistics that 70 percent of incarcerated veterans are in jail for non-violent offenses.¹ However, the ABA statistic apparently relates to veterans in local jails. There is no comprehensive data on the number of veterans among the approximate 57,000 adults either serving sentences or awaiting trial or hearing in county jails throughout Florida.

Judge T. Patt Maney, for whom the bill is named, regularly deals with veterans in his Okaloosa County courtroom. Judge Maney has observed that the offenses that are most frequently committed by veterans are trespass, possession of an open container, obstructing traffic,

¹ ABA Commission on Homelessness and Poverty, Resolution 105A, February 10, 2010 at <http://www.abanow.org/wordpress/wp-content/themes/ABANow/wp-content/uploads/resolution-pdfs/MY2010/summaries/105A-adopted-as-revised.pdf> and accompanying report at <http://www.abanow.org/wordpress/wp-content/themes/ABANow/wp-content/uploads/resolution-pdfs/MY2010/105A.pdf>, last viewed on September 28, 2011. The report indicates that the statistics come from a 2002 report by the Department of Justice Bureau of Justice Statistics, but staff could not locate the underlying report.

possession of marijuana, loitering, worthless checks, disorderly conduct, domestic violence, resisting an officer, and petit theft.² A detailed report of veterans' involvement in the criminal judicial system in Travis County, Texas, reflects that the majority of misdemeanor charges against veterans were for non-violent offenses, while the majority of felony charges were for violent offenses.³

In 2008, the Florida Department of Veterans' Affairs and the Florida Office of Drug Control issued a paper examining the issue of mental health and substance abuse needs of returning veterans and their families.⁴ The study noted that combat medical advances are enabling veterans of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) to survive wounds that would have been fatal in previous conflicts, and thus some are returning with "more complex physical and emotional disorders, such as Traumatic Brain Injuries and Post-Traumatic Stress Disorder, substance abuse and depression."⁵ The study also estimated that approximately 29,000 returning veterans residing in Florida may suffer from PTSD or some form of major depression.⁶

A Rand Center report in 2008 indicated that preliminary studies showed that 5 to 15 percent of OIF and OEF service members are returning with PTSD, 2 to 10 percent with depression, and an unknown number with TBI.⁷ A person with any of these disorders also has a greater likelihood of experiencing other psychiatric diagnoses than do other persons.⁸

A report by the Center for Mental Health Services National GAINS Center of the federal Substance Abuse and Mental Health Services Administration (SAMHSA) noted that many veterans coming into contact with the criminal justice system may have unmet treatment needs.⁹ Veterans courts have been established across the country as some judges have begun to recognize a correlation between the commission of offenses by veterans and substance abuse issues, mental health issues, and cognitive functioning problems. These judges concluded that in many cases, the veterans' inability to deal with these conditions on their own contributed to their encounters with the legal system.

Veterans' courts have the goal of identifying veterans who would benefit from a treatment program instead of incarceration or other sanctions. They are typically patterned after successful specialty courts such as drug courts and mental health courts. Since 2008, legislation authorizing

² Email from Okaloosa County Judge Pat Maney to legislative staff dated February 11, 2011.

³ *Report of Veterans Arrested and Booked Into the Travis County Jail, July 2009*, http://www.co.travis.tx.us/constables/4/pdfs/vip_jail_survey_report.pdf, last viewed on September 28, 2011.

⁴ Florida Department of Veterans' Affairs and Florida Office of Drug Control Green Paper, *Returning Veterans and Their Families with Substance Abuse and Mental Health Needs: Florida's Action Plan*, January 2009, page 5, http://www.helppromotehope.com/documents/Veterans_Green_Paper.pdf, last viewed on September 28, 2011.

⁵ *Ibid*, p. 5.

⁶ *Ibid*, p. 5.

⁷ Rand Center for Military Health Policy Research, Benjamin R. Karney, Rajeev Ramchand, Karen Chan Osilla, Leah B. Caldarone, and Rachel M. Burns, *Invisible Wounds, Predicting the Immediate and Long-Term Consequences of Mental Health Problems in Veterans of Operation Enduring Freedom and Operation Iraqi Freedom*, April 2008, page xviii, http://www.rand.org/pubs/working_papers/2008/RAND_WR546.pdf, last viewed on September 28, 2011.

⁸ *Ibid*, p. 127.

⁹ GAINS Center, *Responding to the Needs of Justice-Involved Combat Veterans with Service-Related Trauma and Mental Health Conditions*, August 2008, page 6, at http://gainscenter.samhsa.gov/pdfs/veterans/CVTJS_Report.pdf last viewed on September 28, 2011. The observation was based upon information provided by the VA.

the establishment of veterans' courts has been adopted or at least considered in California, Colorado, Illinois, Oregon, Texas and Virginia, and has been considered in Connecticut, Minnesota, Nevada, New Mexico, New York and Oklahoma.¹⁰ The National Association of Drug Court Professionals website indicates that there are veterans' courts in 73 cities or counties nationwide.¹¹

One advantage that veterans' courts have over drug and mental health courts is that the majority of veterans who have committed criminal offenses are eligible for treatment services provided and funded by the United States Department of Veterans Affairs (VA). The previously-cited ABA study indicates that 82 percent of veterans in jail nationwide are eligible for services from the VA based on the character of their discharge.¹²

Florida has experience with both drug courts and mental health courts. In fact, it is believed that the Miami-Dade County Drug Court, founded in 1989, was the first drug court in the United States.¹³ Section 397.334, F.S., authorizes the establishment of drug courts that divert eligible persons to county-funded treatment programs in lieu of adjudication. Twenty-nine counties have an adult pretrial drug court and twenty-seven counties have an adult post-adjudication drug court. When juvenile, family dependency, DUI, and misdemeanor drug courts are included, forty-five counties have some type of drug court program.¹⁴

Funding for drug courts can come from a variety of sources including court fees, local funding, private or governmental grants, private payment by participants, or charitable donations.¹⁵

The Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program in s. 394.658, F.S., calls for award of a 1-year planning grant and a 3-year implementation or expansion grant to identify and treat individuals who have mental illness, substance abuse disorder, or co-occurring mental health and substance abuse disorders who are in or at risk of entering the criminal or juvenile justice systems. Twenty counties have received implementation grants, and five of those counties received subsequent expansion grants for their programs.¹⁶

¹⁰ Interim Report 2011-131, Veterans' Courts, Florida Senate Committee on Military Affairs and Domestic Security, October 2010, p. 1 (with updated information). Much of the information in this portion of the analysis is derived from the Interim Report.

¹¹ National Association of Drug Court Professionals website at <http://www.nadcp.org/learn/veterans-treatment-courts/veterans-treatment-court-studies-and-statistics>, last viewed on September 28, 2011.

¹² *Supra* note 2, ABA Commission on Homelessness and Poverty, Report on Resolution 105A, p. 2.

¹³ The history of the founding of the Miami-Dade Drug Court, and of Florida drug courts in general, can be found in the Supreme Court Task Force on Treatment-Based Drug Courts Supreme Court Task Force's "Report on Florida Drug Courts (July 2004)", http://www.flcourts.org/gen_public/family/drug_court/bin/taskforcereport.pdf, last viewed on September 28, 2011.

¹⁴ "Drug Courts in Florida", http://www.flcourts.org/gen_public/family/drug_court/map.shtml, last viewed on September 28, 2011.

¹⁵ "Drug Court Funding Opportunities", http://www.flcourts.org/gen_public/family/drug_court/bin/Funding.pdf, last viewed on September 28, 2011.

¹⁶ Annual Report on the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program Act, 2010 Report, at <http://www.floridatac.org/files/document/CJMHS%20TA%20Center%20Annual%20Report%202010.pdf%20Final.pdf>, last viewed on September 28, 2011.

Veterans Courts in Florida

There are several veterans' court and veterans' jail diversion initiatives around the state. The National Association of Drug Court Professionals (NADCP) maintains information about veterans treatment courts that lists courts in Miami-Dade, Palm Beach, and Pinellas counties.¹⁷ There are also veterans dockets or programs in other Florida courts that are not included on the NADCP list.

The program in Miami-Dade County is available to veterans who are facing minor drug offenses and do not have a violent or extensive criminal history. In its initial stages, the program has drawn participants from defendants who are already involved with traditional drug court. They receive similar treatment, but also are assisted by a VA psychologist and outreach coordinator.¹⁸

The Palm Beach County veterans' docket began operating in November 2010.¹⁹ A feature of the program is assignment of a VA social worker supervisor to act as the court's VA liaison. This VA employee has oversight of screening and case management services for eligible veterans. In addition to receiving any needed mental health and substance abuse treatment, participating veterans also have access to VA programs that address homelessness and unemployment. This is compatible with the VA's national Veteran's Justice Outreach Initiative that will assign staff and trained volunteer resources to facilitate veterans' court programs.²⁰

In April 2011, the Okaloosa County Commission approved creation of a veterans' court for the county that is expected to begin operation later this year. Although there is currently no formal veterans' court, many cases of veterans in the county are already being referred to a court docket with special knowledge of veterans and veterans' issues. To determine eligibility, offenders are asked at initial booking if they have ever served in the military and what type of discharge they received. Veterans are further asked if they will sign a release in order to share information with the VA. Further screening is conducted through the Pre-Trial Services Office, and the program uses drug court case managers to monitor participants. Access to VA treatment facilities is being sought for eligible veterans in the program.

As noted previously, the bulk of Okaloosa County veterans' cases involve substance abuse, related domestic violence, and some theft related cases including worthless check charges that may be related to lost cognitive ability to do math. Successful completion of the program is defined as completion of a treatment program and avoiding additional legal problems.

The 12th Judicial Circuit (DeSoto, Sarasota and Manatee Counties) has established a program called "Courts Assisting Veterans." While not a true veteran's court, it seeks to achieve similar

¹⁷ See <http://www.justiceforvets.org>, last viewed on September 29, 2011.

¹⁸ "Miami-Dade starts specialized drug court for military veterans," Miami Herald, May 2, 2011, <http://www.miamiherald.com/2011/04/30/2197989/miami-dade-starts-specialized.html>, last viewed on September 29, 2011.

¹⁹ The Veteran's Docket was established by Administrative Order No. 4.905-11/10 of the Fifteenth Judicial Circuit for Palm Beach County, which can be downloaded from <http://15thcircuit.co.palm-beach.fl.us/web/guest/adminorders/series4>, last viewed on September 28, 2011.

²⁰ The Veteran's Justice Outreach Initiative website is <http://www.va.gov/HOMELESS/VJO.asp>, and specific information about the Palm Beach County Veterans' Docket can be found at <http://www.westpalmbeach.va.gov/WESTPALMBEACH/features/VeteransJusticeOutreach.asp>. Both sites were last viewed on September 28, 2011.

goals through the use of existing programs, including referral of veteran's to existing drug and mental health courts.²¹

In October 2009, the Department of Children and Families Mental Health Program Office was awarded over \$1.8 million from SAMHSA over the next five years to provide services and support for Florida's returning veterans who served in Iraq and Afghanistan and who suffer with Post-Traumatic Stress Disorder and other behavioral health disorders. The department describes the grant and the project as follows:

The project will redesign the state's response to the needs of veterans and their family members by helping returning veterans learn to cope with the trauma of war and the adjustments of coming home and avoiding unnecessary involvement with the criminal justice system. Florida's project is based on a foundation of evidence-based screening, assessment, treatment and recovery practices. The grant will enable the Department to implement two veteran's jail diversion pilot projects for 240 veterans over the next five years. This grant will expand the Department's existing jail diversion programs by identifying veterans who have an initial contact with the criminal justice system, helping them enroll in Veteran's Administration benefits for those who are eligible, providing trauma-related treatment services, linking them with support services in their community, and providing specialized peer support services. Additionally, this grant enables the Department to include family members as recipients of services. One unique aspect of this grant is Florida's creation and implementation of a new state-level Veteran Peer Support Specialist credential, possible through the Department's ongoing partnership with the Florida Certification Board. Certification of trained veterans will professionalize what we know works - trained veterans who've been there helping other returning veterans adjust to their home and community. In the first year, the grant from the federal Substance Abuse and Mental Health Services Administration (SAMHSA) will provide DCF with \$268,849. Hillsborough County is one of two sites that will launch Florida's Jail Diversion and Trauma Recovery Program. The location of the other pilot project has not yet been determined.²²

III. Effect of Proposed Changes:

Pre-sentencing Hearing for Veterans

Section 2 of the bill requires a sentencing court to hold a special pre-sentencing hearing for a convicted veteran if the veteran alleges that he or she committed the offense because of PTSD, TBI, substance use disorder, or psychological problems stemming from service with the United States military in a combat theater. If these prerequisites are met, the court must hold a hearing to: (1) determine whether the veteran was a member of the United States military who served in a combat theater; and (2) assess whether the veteran suffers from PTSD, TBI, substance use disorder, or psychological problems as a result of that service. The court is not required to

²¹Courts Assisting Veterans, 12th Judicial Circuit, <http://www.cavs12.org/home.aspx>, last viewed on September 29, 2011.

²² Florida Department of Children and Families' description of the Veterans Jail Diversion Grant at <http://www.dcf.state.fl.us/programs/samh/mentalhealth/consumerfamilyaffairs/currinitiatives.shtml>, last viewed on September 28, 2011.

determine whether the condition contributed to commission of the offense. The convicted veteran bears the burden of proving the relevant issues.

The bill does not require the court to alter its sentencing practice even if it determines that the veteran's claim is valid. However, if the veteran is otherwise eligible to be placed on community supervision, he or she may be ordered to participate in a local, state, federal, or private non-profit treatment program as a condition of probation or community control. In order for the court to exercise this option, the veteran must agree to participate and the court must determine that an appropriate treatment program is available. Whenever possible, the court must place the veteran in a treatment program that has had success in treating veterans who suffer from PTSD, TBI, substance use disorder, or psychological problems relating to their military service. Preference must also be given to programs of the United States Department of Veterans Affairs (VA) or Florida Department of Veterans Affairs (FDVA) for which the veteran is eligible.

The court can make a written finding that it would have sentenced the veteran to incarceration except for the fact that he or she suffers from PTSD, TBI, substance use disorder, or psychological problems as a result of military service. If the court makes such a finding, a veteran who is ordered into a residential treatment program would earn sentence credits for the time he or she actually spends in the program. These credits would be applied to reduce any remaining sentence in the event that the veteran is committed to jail or prison as a result of violating the terms of community supervision. This is an exception to existing law that an offender cannot receive credit against prison sentence for any time served in a treatment or rehabilitation program prior to a violation of community supervision. *See State v. Cregan*, 908 So.2d 387 (Fla. 2005).

Current law allows a court to require an offender to participate in treatment as a special condition of probation or community control. However, the bill expands upon this by: (1) focusing attention on the offender's veteran status by requiring the court to hold a hearing to consider the offender's veteran status and condition if the offender alleges that these issues resulted in the offense; (2) requiring that entry into the treatment program be voluntary; (3) providing for sentencing credit for time that the offender who is a veteran spends in an inpatient treatment program; and (4) emphasizing the need to place an offender who is a veteran into a treatment program that has a history of dealing with veterans' issues, with a preference for VA and FDVA programs. A veteran who is sentenced to a treatment program outside of the provisions of the section would not be eligible for sentence credits if he or she violates the conditions of community supervision.

Pretrial Veterans' Treatment Intervention Program

The bill also creates felony and misdemeanor pre-trial diversion programs for veterans who are current or former United States military service members suffering from PTSD, TBI, substance use disorder, or psychological problems resulting from service in a combat theater. The bill would make these veterans eligible for placement in an appropriate treatment program that is approved by the chief judge of the circuit instead of being processed through the criminal justice system.

Section 3 of the bill amends s. 948.08, F.S., to create the felony pretrial veterans treatment intervention program. It would apply to any veteran with one of the conditions who is charged

with a felony that is not a disqualifying offense. The bill references s. 948.06 (8)(c), F.S., to incorporate the offenses used to determine whether an offender is to be treated as a “violent felony offender of special concern” as disqualifying offenses. The disqualifying offenses are:

- Kidnapping or attempted kidnapping under s. 787.01, F.S., false imprisonment of a child under the age of 13 under s. 787.02(3), F.S., or luring or enticing a child under s. 787.025(2)(b) or (c), F.S.
- Murder or attempted murder under s. 782.04, F.S., attempted felony murder under s. 782.051, F.S., or manslaughter under s. 782.07, F.S.
- Aggravated battery or attempted aggravated battery under s. 784.045, F.S.
- Sexual battery or attempted sexual battery under s. 794.011(2), (3), (4), or (8)(b) or (c), F.S.
- Lewd or lascivious battery or attempted lewd or lascivious battery under s. 800.04(4), F.S., lewd or lascivious molestation under s. 800.04(5)(b) or (c)2., F.S., lewd or lascivious conduct under s. 800.04(6)(b), F.S., lewd or lascivious exhibition under s. 800.04(7)(b), F.S., or lewd or lascivious exhibition on computer under s. 847.0135(5)(b), F.S.
- Robbery or attempted robbery under s. 812.13, F.S., carjacking or attempted carjacking under s. 812.133, F.S., or home invasion robbery or attempted home invasion robbery under s. 812.135, F.S.
- Lewd or lascivious offense upon or in the presence of an elderly or disabled person or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person under s. 825.1025, F.S.
- Sexual performance by a child or attempted sexual performance by a child under s. 827.071, F.S.
- Computer pornography under s. 847.0135(2) or (3), F.S., transmission of child pornography under s. 847.0137, F.S., or selling or buying of minors under s. 847.0145, F.S.
- Poisoning food or water under s. 859.01, F.S.
- Abuse of a dead human body under s. 872.06, F.S.
- Any burglary or attempted burglary offense that is a first-degree or second-degree felony under s. 810.02(2) or (3), F.S.
- Arson or attempted arson under s. 806.01(1), F.S.
- Aggravated assault under s. 784.021, F.S.
- Aggravated stalking under s. 784.048(3), (4), (5), or (7), F.S.
- Aircraft piracy under s. 860.16, F.S.
- Unlawful throwing, placing, or discharging of a destructive device or bomb under s. 790.161(2), (3), or (4), F.S.
- Treason under s. 876.32, F.S.

If a veteran with one of the conditions is not charged with a disqualifying offense, he or she would be eligible to be admitted voluntarily into a felony pretrial veterans treatment intervention program if one has been approved by the chief judge of the circuit. Admission may be upon the court’s own motion or the motion of either party. However, there are three circumstances under which a veteran could be denied admission into a program:

- The court may deny admission if the veteran rejected an offer of admission to a pretrial veterans treatment intervention program on the record at any time prior to trial.

- The court may deny admission if the veteran previously entered a court-ordered veterans treatment program.
- The court must hold a preadmission hearing at the request of the state attorney if the state attorney believes that the veteran was involved in selling controlled substances in the case. The court must deny admission to the program if the state attorney demonstrates by a preponderance of the evidence that the veteran was involved in selling controlled substances.

Section 4 of the bill amends s. 948.16, F.S., to create the misdemeanor pretrial veterans treatment intervention program. Any veteran with one of the conditions who is charged with a misdemeanor would be eligible to be admitted voluntarily into a misdemeanor pretrial veterans treatment intervention program if one has been approved by the chief judge of the circuit. However, the court can deny admission if the defendant had previously entered a court-ordered veterans treatment program.

The bill requires that a veterans treatment intervention team develop an individualized coordinated strategy for any veteran who is to be admitted to either a felony or misdemeanor pretrial veterans treatment intervention program. This coordinated strategy must be provided to the veteran in writing before he or she agrees to enter the program. The strategy is to be modeled after the ten therapeutic jurisprudence principles and key components for treatment-based drug court programs that are found in s. 397.334(4), F.S. These principles and components are:

- Drug court programs integrate alcohol and other drug treatment services with justice system case processing.
- Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
- Eligible participants are identified early and promptly placed in the drug court program.
- Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
- Abstinence is monitored by frequent testing for alcohol and other drugs.
- A coordinated strategy governs drug court program responses to participants' compliance.
- Ongoing judicial interaction with each drug court program participant is essential.
- Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.
- Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.
- Forging partnerships among drug court programs, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

The coordinated strategy can include a system of sanctions for non-compliance. The sanctions can include placement in a residential or jail-based treatment program or incarceration for up to the length of time that is allowed for contempt of court.

At the end of the intervention program, the court must consider recommendations for disposition made by the state attorney and the program administrator (for felony diversion programs) or the treatment program (for misdemeanor diversion programs). After considering these recommendations, the court must dismiss the charges if it finds that the veteran successfully

completed the intervention program. If the court finds that the veteran did not successfully complete the program, it can either order the veteran to continue in education and treatment or order that the charges revert to normal channels for prosecution.

Any veteran whose charges are dismissed after successful completion of the pretrial veterans treatment intervention program, if otherwise eligible, may have his or her arrest record and a plea of nolo contendere to the dismissed charges expunged under s. 943.0585, F.S.

The felony and misdemeanor treatment-based drug court program statutes on which the pretrial veterans treatment intervention program are modeled include requirements for the county or appropriate government entity to enter into a contract with any public or private entity that provides felony or pretrial diversion services. However, the bill does not include this requirement for felony pretrial veterans treatment intervention programs and provides an exception for VA and FDVA programs in the statute that creates misdemeanor pretrial veterans treatment intervention programs. It is anticipated that much of the needed treatment will be provided by the VA as a benefit that is available to the veteran as a result of his or her military service.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill would have an impact on the private sector to the extent that participants are diverted from incarceration into private treatment programs.

C. Government Sector Impact:

The Criminal Justice Impact Conference has not yet considered whether the bill would have an impact on the state prison population. However, last year the conference determined that the originally-filed bill would have no impact on the state prison population, and there are no differences in the bills that would appear to affect fiscal issues.

The bill creates pretrial veterans treatment intervention programs. Pretrial drug court diversion programs are funded by the state and local government. In drug court programs, the county pays for the costs of testing and treatment. If the veteran's treatment diversion programs operate in a similar fashion, the cost of such programs will be borne by both the state and local government. The cost of bill is indeterminate as the number of veterans to be served as well as the type and frequency of services is unknown. If the bill diverts some defendants from incarceration to community-based treatment programs, it is anticipated that much of the programming could be provided by the VA as part of the veteran's benefits.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.