

**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:** CS/CS/SB 922

**INTRODUCER:** Criminal Justice Committee; Military Affairs, Space, and Domestic Security Committee; and Senator Bennett and others

**SUBJECT:** Current and Former Military Personnel

**DATE:** January 19, 2012      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fleming</u>	<u>Carter</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Clodfelter</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The bill contains a number of provisions relating to current and former military personnel. In general, the bill:

- Creates the National Guard Employment Tax Credit Program. This program allows an eligible business which employs a current member of the Florida National Guard who has been unemployed for more than 6 months or is returning from duty abroad, to be eligible to receive a \$10,000 tax credit.
- Creates the Florida Veterans' Hall of Fame Council within the Florida Department of Veterans' Affairs to serve as an advisory body tasked with accepting nominations of persons to be considered for induction into the existing Florida Veterans' Hall of Fame.
- Expands the vendor preference in state contracting, which currently applies to qualified service-disabled veterans, to include certain businesses owned and operated by wartime veterans.
- Creates the Combat Infantry Badge, Distinguished Service Cross, Navy Cross, Air Force Cross, Korean Conflict Veteran, and Vietnam War Veteran special use license plates. Such

plates may be issued to recipients of these awards and to Korean Conflict and Vietnam War veterans upon applying with proof of eligibility and payment of the vehicle license tax.

- Authorizes an American Legion specialty license plate.
- Designates August 7 of each year as “Purple Heart Day” and authorizes the Governor to annually issue a proclamation designating August 7 as “Purple Heart Day.”
- Authorizes the creation of military veterans and servicemembers court programs.
- Allows counties to establish programs to divert a veteran or servicemember who is charged with a criminal offense into an appropriate treatment program if they have a service-related mental illness, traumatic brain injury (TBI), substance use disorder, or psychological problem.
- Specifically permits a court to order a special condition of probation requiring a veteran or servicemember who has a service-related mental illness, traumatic brain injury (TBI), substance use disorder, or psychological problem to participate in a treatment program for the condition.
- Allows a school-aged dependent of military personnel the option to remain at the school he or she currently attends if a local school board adjusts school zones, which requires attendance at a different school for that student.
- Requires institutions within the Florida College System and State University System of Florida that offer priority course registration for a segment of the student population to provide priority course registration to veterans of the U.S. Armed Forces and dependents of veterans using GI Bill educational benefits.
- Allows veterans of the U.S. Armed Forces who physically attend a public college, university or institution of higher learning in Florida, to be automatically classified as a resident of the state for tuition purposes.

The bill amends the following sections of the Florida Statutes: 265.003, 295.187, 320.08058, 320.089, 948.08, 948.16, 1003.05, and 1009.21.

The bill creates the following sections of the Florida Statutes: 220.1893, 320.0892, 683.146, 948.21, 1004.075, 1005.09.

Section 10 of the bill creates an unnumbered section of the Florida Statutes.

The bill provides an effective date of July 1, 2012, with the exception of Section 4, which takes effect on October 1, 2012.

## **II. PRESENT SITUATION:**

This is an omnibus bill, containing provisions on a number of proposals relating to current and former military personnel. The bill consists of 17 sections which correspond to several Senate bills introduced during the 2011 and 2012 Regular Session as well as additional provisions.

Given the broad nature of the bill and the multitude of proposals, information on the “Present Situation” pertaining to each proposal is set forth in conjunction with the discussion of the “Effect of Proposed Changes” for that proposal.

### III. EFFECT OF PROPOSED CHANGES:

#### **SECTION 1: NATIONAL GUARD EMPLOYMENT TAX CREDIT PROGRAM**

Section 1 of the bill creates s. 220.1893, F.S.

##### ***Unemployment among Members of the Florida National Guard***

The Florida National Guard is composed of the Florida Army National Guard and the Florida Air National Guard and includes roughly 12,000 soldiers and airmen combined. Recent surveys illustrate high unemployment rates among members of the Florida National Guard, particularly among members returning from deployments. Although there can be considerable fluctuation in the unemployment rate among members of the Florida National Guard, a survey conducted by the National Guard Bureau in June 2011 shows an average unemployment rate of 16.7 percent (1,713 guardsmen) among Florida National Guardsmen.<sup>1</sup> While National Guards across the nation vary in size, the survey also shows that the unemployment rate of the Florida National Guard ranks seventh compared to the unemployment rate of National Guards in other states.<sup>2</sup>

Additionally, unemployment rates among Florida National Guard units returning from deployments have been known to far exceed the average rate of 17 percent. The 53rd Infantry Brigade Combat Team redeployed in December 2010 and reported a 30 percent unemployment rate among its members.<sup>3</sup> High unemployment rates for returning deployed National Guardsmen can be attributed to the same factors that impact civilian unemployment rates which include closing businesses, fewer jobs and an overall economic decline.<sup>4</sup>

##### ***The Florida National Guard Employment Initiatives***

Current members of the Florida National Guard are often not eligible to participate in the many employment services and programs in place to address the high unemployment rate among military veterans.<sup>5</sup> The Florida National Guard does, however, employ several initiatives aimed at helping unemployed servicemembers find jobs. Among the most publicized programs are the Florida Guard Family Career Connection Program and Operation KickStart.

- The Florida Guard Family Career Connection program is designed to assist both deployed and non-deployed Guard members with resources linking them to potential employers.<sup>6</sup>
- Operation KickStart uses an online database that takes the Military Occupational Specialty of an individual to reference open job opportunities that will complement skills accumulated during their military service.<sup>7</sup>

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<sup>1</sup> The National Guard Bureau. *Information Paper: Combined Unemployment Data for the Army and Air National Guard – as of June 18, 2011*. Obtained from the Florida Department of Military Affairs staff. January 10, 2012. (On file with the Senate Military Affairs, Space, and Domestic Security Committee).

<sup>2</sup> States with the highest unemployment rates among National Guard members: Connecticut (22.68%); Alaska (20.31%); Nevada (18.19%); Michigan (17.04%); Vermont (16.85%); and New York (16.72%) as of June 2011.

<sup>3</sup> Witness Testimony of Major General James D. Tyre, ARNG, Assistant Adjutant General, Florida Army National Guard. U.S. House of Representatives Committee on Veterans' Affairs. June 1, 2011. Available at:

<http://veterans.house.gov/prepared-statement/prepared-statement-major-general-james-e-tyre-usa-assistant-adjutant-general>

<sup>4</sup> *Id.*

<sup>5</sup> Testimony of Doug Darling, Executive Director of the Florida Department of Economic Opportunity. Senate Military Affairs, Space, and Domestic Security Committee meeting. January 9, 2012.

<sup>6</sup> For more information, see: <http://www.floridaguard.army.mil/careers>.

Other Florida National Guard employment initiatives include: the Yellow Ribbon Program; Battalion Career Counselors; Transition Assistance Advisors; Family Assistance Centers; and Employer Support of the Guard and Reserve.<sup>8</sup>

### **Proposed Changes**

Section 1 of the bill creates s. 220.1893, F.S., establishing a tax credit relating to the employment of unemployed members of the Florida National Guard.

### **Definitions**

Key definitions in this section include:

- “Department” means the Department of Economic Opportunity.
- “Eligible business” is defined as a business that:
  - Is operating and authorized to do business in Florida.
- “Qualified employee” is defined as a person:
  - Who is a current Florida National Guard member in good standing;
  - Who has been unemployed for more than 6 months or is returning from duty abroad;
  - Who was hired by an eligible business on or after July 1, 2012, and had not been previously employed by the eligible business;
  - Who performed duties connected to the operations of the eligible business on a regular, full-time basis for an average of at least 36 hours per week and for at least 3 months before an eligible business is awarded a tax credit;
  - Whose employment by the eligible business has not formed the basis for any other claim to a tax credit.

### **Tax Credits**

This section allows a certified business to receive a \$10,000 tax credit for each qualified employee. The credit may be taken against:

- Corporate income taxes under chapter 220, F.S.;
- Insurance premium tax under s. 624.509, F.S.;
- Taxes on sales, use, and other transactions under chapter 212, F.S.;
- Intangible personal property taxes under chapter 199, F.S.;
- Excise taxes on documents under chapter 201, F.S.;
- Ad valorem taxes paid, as defined in s. 220.03(1), F.S.;
- State communications services taxes administered under chapter 202, F.S.

The total amount of tax credits which may be approved by the department for all applicants is \$5 million per fiscal year. The act also allows for a tax credit that is granted which is not fully used in the first year for which it becomes available to be carried forward to the subsequent taxable year.

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<sup>7</sup> The Florida Guard Online. *Soldiers ‘kickstart’ their job search*. (January 9, 2012). Available at: <http://www.floridaguard.army.mil/5821>

<sup>8</sup> The Florida Guard Online. Career Center website. Available at: [www.floridaguard.army.mil/careers](http://www.floridaguard.army.mil/careers).

***Application for Certification***

For the purposes of applying to become a certified business and claim the tax incentive created in this act, an eligible business must file an application with the Department of Economic Opportunity requesting certification. The application must include the following information:

- The name, address, and NAICS identifying code of the eligible business (“NAICS” means those classifications contained in the North American Industry Classification System);
- Relevant employment information;
- A sworn affidavit, signed by each employee for whom the eligible business is seeking credits, attesting to his or her previous unemployment; and
- Verification that the wages paid by the eligible business to each of its qualified employees exceeds the wage eligibility levels for Medicaid and other public assistance programs.

The department has 10 days from receipt of a completed application to review and approve or deny an application and must notify the applicant in writing as to the department’s decision. Additionally, the department must submit a copy of the letter of certification to the Department of Revenue within 10 days after the department notifies the applicant.

The act authorizes the department and the Department of Revenue to govern the manner and form of applications for the tax credit and to adopt rules to administer this section.

This section expires July 1, 2014.

**Government Fiscal Impact**

Section 1 of the bill establishes the National Guard Employment Tax Credit Program (program). This program allows an eligible business which employs a current member of the Florida National Guard who has been unemployed for more than 6 months or is returning from duty abroad, to be eligible to receive a \$10,000 tax credit. The program is capped at \$5 million per fiscal year and is set to expire after 2 years. The number of businesses that will take advantage of this tax credit and the number of guardsmen to whom this section applies is unknown. The Revenue Estimating Conference has not yet addressed the provisions contained in this section of the bill.

The fiscal impact on the Department of Economic Opportunity and the Department of Revenue is indeterminate. This section of the bill increases the workload of the Department of Economic Opportunity and the Department of Revenue, so it is possible these agencies may require additional FTEs and updated software.

**SECTION 2: FLORIDA VETERANS’ HALL OF FAME**

Section 2 of the bill amends s. 265.003, F.S.

**Present Situation**

The Florida Veterans Hall of Fame (Hall of Fame) was established during the 2011 Legislative Session<sup>9</sup> in an effort to recognize and honor military veterans who have made a significant contribution to the state of Florida through their works and lives during or after military service.<sup>10</sup>

The Hall of Fame is administered by the Florida Department of Veterans' Affairs (FDVA) and is located on the Plaza Level of the Capitol Building along the northeast front wall. Current law requires the FDVA to annually accept nominations for persons to be considered for the Hall of Fame and transmit its recommendations to the Governor and the Cabinet, who will select the nominees to be inducted. Each veteran selected will have his or her name placed on a plaque in the Hall of Fame.

The FDVA must give preference to veterans who:

- Were born in Florida or adopted Florida as their home state or base of operation; and,
- Have made a significant contribution to Florida in civic, business, public service, or other pursuits.

The FDVA is further authorized to establish selection criteria, time periods for acceptance of nominations, the process for selecting nominees, and a formal induction ceremony to coincide with the annual commemoration of Veterans' Day. Initial inductions to the Hall of Fame are tentatively expected to take place on Veterans Day 2012.

**Proposed Changes**

Section 2 of the bill amends s. 265.003, F.S., to establish the Florida Veterans' Hall of Fame Council (council) within the FDVA to serve as the advisory body tasked with accepting nominations of persons to be considered for induction into the Hall of Fame.

The council consists of 7 members who are all honorably discharged veterans, at least 4 of whom are members of a congressionally chartered veterans service organization. The Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, the President of the Senate, the Speaker of the House of Representatives, and the executive director of the FDVA each appoint one member to the council.

Council members serve 4-year terms with the exception of the initial appointments, for which appointees serve either a 2-year and 4-year term to ensure staggered terms among the council. The members must annually elect a chair and will meet at the call of its chair, at the request of the executive director of the FDVA, or at such times as may be prescribed by the council.

The council takes the place of the FDVA in annually accepting nominations for persons to be considered for the Hall of Fame. After acceptance of nominations, the council must transmit a list of 20 nominees to the FDVA for submission to the Governor and Cabinet, who will select four persons from the list of nominees to be inducted. The council also assumes the FDVA's

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<sup>9</sup> Chapter 2011-168, Laws of Florida

<sup>10</sup> Section 265.003, F.S.

current statutory authority to establish selection criteria, time periods for acceptance of nominations, the process for selecting nominees, and a formal induction ceremony to coincide with the annual commemoration of Veterans' Day.

Members of the council may not receive compensation for their services, but are entitled to reimbursement for travel expenses incurred in the performance of their duties.

### **Government Fiscal Impact**

Section 2 of the bill provides for the establishment of the Florida Veterans Hall of Fame Council. Although members of the council may not receive compensation for their services, they are entitled to reimbursement for travel expenses incurred in the performance of their duties.

## **SECTION 3: BUSINESS OPPORTUNITIES FOR WARTIME VETERANS**

Section 3 of the bill amends s. 295.187, F.S.

### **Present Situation**

The Office of Supplier Diversity (OSD) within the Department of Management Services (DMS) has the mission of improving business and economic opportunities for Florida's minority, women, and service-disabled veteran business enterprises.<sup>11</sup> Current law requires the DMS, through the OSD, to implement a minority business enterprise (MBE) certification program and a small service-disabled veteran business enterprise (SDVBE) certification program.<sup>12</sup> Minority, women, and service-disabled veteran-owned businesses that are certified through the OSD are eligible for benefits such as: first tier referrals to state agencies for contract opportunities; business development guidance from established corporations; participation at regional workshops, seminars, and corporate roundtables; and inclusion in an exclusive listing of state-certified minority business enterprises in an online directory.<sup>13</sup> During fiscal year 2009-10, the OSD certified 4,617 minority, woman, and service-disabled veteran-owned business enterprises statewide.<sup>14</sup>

### ***The Florida Service-Disabled Veteran Business Enterprises Opportunity Act***

The intent of the Florida Service-Disabled Veteran Business Enterprise Opportunity Act<sup>15</sup> (act) is to:

[R]ectify the economic disadvantage of service-disabled veterans, who are statistically the least likely to be self-employed when compared to the veteran population as a whole and who have made extraordinary sacrifices on behalf of the nation, the state, and the public, by providing opportunities for service-disabled veteran business enterprises as set forth in this section.<sup>16</sup>

<sup>11</sup>DMS Office of Supplier Diversity website. Available at:

[http://www.dms.myflorida.com/other\\_programs/office\\_of\\_supplier\\_diversity\\_osd](http://www.dms.myflorida.com/other_programs/office_of_supplier_diversity_osd)

<sup>12</sup> Sections 287.0943 and 295.187, F.S., require the DMS to implement the MBE and the SDVBE certification programs, respectively.

<sup>13</sup> OSD Annual Report for Fiscal Year 2009-10. Available at:

[http://www.dms.myflorida.com/other\\_programs/office\\_of\\_supplier\\_diversity\\_osd/publications/annual\\_reports](http://www.dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/publications/annual_reports).

<sup>14</sup> *Id.*

<sup>15</sup> Section 295.187, F.S.

<sup>16</sup> Section 295.187(2), F.S.

The act creates the certification process within DMS for SDVBEs. This section also creates a “tiebreaker” preference for SDVBEs by requiring a state agency to award a procurement or contract to a bidder who is a certified SDVBE if two or more bids, proposals, or replies for the procurement of commodities or contractual services are equal with respect to all relevant considerations including price, quality, and service. However, if a certified SDVBE and one or more SDVBE or businesses eligible for another statutory vendor preference, such as an MBE, submit bids or proposals that are equal with respect to all relevant considerations including price, quality, and service, the state agency must award the contract or proposal to the business having the smallest net worth. In order to become certified as a SDVBE, the owners and the business must satisfy statutory eligibility requirements. In order to be considered a “service-disabled veteran” eligible for certification, the veteran must be a permanent resident of Florida who has a service-connected disability of 10 percent or greater as determined by the U.S. Department of Veterans Affairs or who was terminated from military service by reason of disability by the U.S. Department of Defense.

In order to be certified as a SDVBE, a business enterprise must be an independently owned and operated business that:

- Employs 200 or fewer permanent full-time employees.
- Together with its affiliates has a net worth of \$5 million or less or, if a sole proprietorship, has a net worth of \$5 million or less including both personal and business investments.
- Is organized to engage in commercial transactions.
- Is domiciled in this state.
- Is at least 51 percent owned by one or more service-disabled veterans.
- Is managed and controlled by one or more service-disabled veterans or, for a service-disabled veteran with a permanent and total disability, by the spouse or permanent caregiver of the veteran.

Section 295.187, F.S., establishes a certification process administered by DMS, in coordination with the FDVA. The certification process requires applicants to submit documentation demonstrating that the business meets the above-listed requirements. Certification is renewed biennially and may be revoked for one year if the SDVBE fails to inform DMS within 30 days of a change in circumstances that renders the business ineligible for certification.

Section 295.187, F.S., provides rule-making authority to the FDVA, and requires the FDVA to:

- Assist DMS in establishing a certification procedure, which must be reviewed biennially and updated as necessary.
- Identify eligible service-disabled veteran business enterprises by any electronic means, including electronic mail, Internet website or by any other reasonable means.
- Encourage and assist eligible service-disabled veteran business enterprises to apply for certification under this section.
- Provide information regarding services that are available from the Office of Veterans’ Business Outreach of the Florida Small Business Development Center to service-disabled veteran business enterprises.

This section also provides rule-making authority to DMS, and requires DMS to:

- Establish a certification procedure, which must be reviewed biennially and updated as necessary.
- Grant, deny, or revoke the certification of a SDVBE.
- Maintain an electronic directory of certified service-disabled veteran business enterprises for use by the state, political subdivisions of the state, and the public.

In addition, this section encourages political subdivisions of the state to offer similar consideration to certified service-disabled veterans.

### **Proposed Changes**

Section 3 of the bill amends s. 295.187, F.S., to expand the Florida Service-Disabled Veteran Business Enterprise Opportunity Act to include certain businesses owned and operated by wartime veterans.

To support the expanded eligibility of the act, this section:

- Renames the act as the “Florida Veteran Business Enterprise Opportunity Act.”
- Expands the intent of the act to include recognizing wartime veterans and veterans of a period of war for their sacrifices.
- Requires wartime veteran applicants to provide documentation of wartime service from the U.S. Department of Veterans Affairs or the U.S. Department of Defense.
- Requires the FDVA to assist the DMS in the expansion of the certification program.

In addition, section 3 of the bill provides that a veteran is considered a “wartime veteran” if he or she meets the definition of a “wartime veteran” as used in s. 1.01(14), F.S.,<sup>17</sup> or the definition of a “veteran of a period of war,” as used in 38 U.S.C. s. 1521.<sup>18</sup>

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<sup>17</sup> Section 1.01(14), F.S., defines the term “wartime veteran” as a veteran who has served in a campaign or expedition for which a campaign badge has been authorized or a veteran who has served during one of the following periods of wartime service: Spanish-American War; Mexican Border period; World War I; World War II; Korean Conflict; Vietnam Era; Persian Gulf War; Operation Enduring Freedom; Operation Iraqi Freedom.

<sup>18</sup> 38 U.S.C. s. 1521 defines “a veteran of a period of war” as a veteran who served in the active military, naval, or air service: for 90 days or more during a period of war; during a period of war and was discharged or released from such service for a service-connected disability; for a period of 90 consecutive days or more and such period began or ended during a period of war; or for an aggregate of 90 days or more in two or more separate periods of service during more than one period of war.

### **Government Fiscal Impact**

DMS estimates nonrecurring costs of \$10,000 to implement the changes in MyFloridaMarketPlace and an estimated \$30,000 related to the additional workload for processing certifications for wartime veteran businesses; however, it is unknown how many “wartime veteran-owned” businesses are located in Florida and how many of those businesses would apply for certification. Since these numbers are unknown, the cost to implement section 3 of the bill is unknown at this time. Once the actual costs of implementation are known, the funding could be addressed during the budgeting process.

### **SECTIONS 4-7: LICENSE PLATES**

Section 4-7 of the bill amends or create statutes relating to license plates.

#### **Present Situation**

##### ***Motor Vehicle License Plates; Issuance; Annual License Taxes***

The Department of Highway Safety and Motor Vehicles (DHSMV) administers the issuance of motor vehicle license plates as a part of the tag and registration requirements specified in chapter 320, F.S. License plates are issued for a 10-year period and are replaced upon renewal at the end of the 10-year period.<sup>19</sup> The license plate fee for both an original issuance and replacement is \$28.00.<sup>20</sup> An advance replacement fee of \$2.80 is applied to the annual vehicle registration and is credited towards the next replacement. Section 320.08, F.S., requires the payment of an annual license tax that varies by motor vehicle type and weight. For a standard passenger vehicle weighing between 2,500 and 3,500 pounds, the annual tax is \$30.50.

Current law provides for several types of license plates. In addition to plates issued for governmental or business purposes, DHSMV offers four basic types of plates to the general public:

- **Standard Plates:** The standard license plate currently comes in three configurations, which include the county name designation, the state motto designation, and the state slogan designation.
- **Specialty License Plates:** Specialty license plates are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty plate program are required to make application to DHSMV, pay an application fee, and obtain authority from the Florida Legislature.<sup>21</sup> The recipient must pay applicable taxes pursuant to ss. 320.08, F.S., and 320.06(1)(b), F.S., and an additional charitable contribution ranging from \$15 to \$25 as provided in s. 320.08056(4)(a) – (zzz), F.S., in order to receive a specialty license plate. The creation of new specialty license plates by DHSMV is prohibited until July 1, 2014.<sup>22</sup>
- **Personalized Prestige License Plates:** Personalized license plates are available to motorists who wish to personalize a license plate. Personalized license plates allow motorists to define the alpha numeric design (up to 7 characters) on a standard plate that must be approved by

<sup>19</sup> Section 320.06, F.S.

<sup>20</sup> An initial issuance requires a fee of \$225, pursuant to s. 320.072, F.S.

<sup>21</sup> See generally s. 320.08053, F.S.

<sup>22</sup> The moratorium on new specialty license plates is created by s. 45, Chapter 2008-176, Laws of Florida, as amended by s. 21, Chapter 2010-223, Laws of Florida.

the DHSMV. The cost for a personalized prestige license plate (in addition to the applicable tax in s. 320.08, F.S.) is \$15 (\$10 use fee and \$5 processing fee), pursuant to s. 320.0805, F.S.

- **Special Use License Plates:** Certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility pursuant to various sections of chapter 320, F.S. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include the Purple Heart, National Guard, U.S. Armed Forces, Ex-POW, Pearl Harbor, Operation Iraqi Freedom, and Operation Enduring Freedom plates,<sup>23</sup> Disabled Veteran plates,<sup>24</sup> and Paralyzed Veterans of America plates.<sup>25</sup>

Annually, the first \$100,000 of revenues from the sales of Special Use plates authorized under s. 320.089, F.S., are deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act. Any additional revenues are deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.

### ***American Legion***

The American Legion is a service organization that focuses on service to veterans, servicemembers and communities. It was incorporated by Congress in 1919 as a patriotic veterans organization devoted to mutual helpfulness. It currently has about 2.4 million members in 14,000 posts worldwide.<sup>26</sup>

### ***Distinguished Service Cross, Navy Cross, and Air Force Cross***

The Distinguished Service Cross (for Army personnel), Navy Cross (for Navy and Marine personnel), and Air Force Cross are the nation's second highest military awards. Each may be awarded to a person serving in any capacity in the respective branch of service who distinguishes himself or herself by extraordinary heroism not justifying the award of a Medal of Honor. The recognized act must have occurred while the recipient was either (1) engaged in an action against an enemy of the United States; (2) engaged in military operations involving conflict with an opposing or foreign force; or (3) serving with friendly foreign forces engaged in an armed conflict against an opposing Armed Force in which the United States is not a belligerent party. The act or acts of heroism must have been so notable and have involved risk of life so extraordinary as to set the individual apart from their comrades.

### ***Silver Star***

The Silver Star may be awarded to a person who, while serving in any capacity with the Army, is cited for gallantry in action against an enemy of the United States under the same conditions as the Distinguished Service Cross. The required gallantry is of a lesser degree of distinction than

<sup>23</sup> Section 320.089, F.S. Some of these plates require payment of the annual license tax in s. 320.08, F.S., while others are exempt from the tax.

<sup>24</sup> Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.

<sup>25</sup> Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.

<sup>26</sup> Information from the American Legion website, <http://www.legion.org>, and the American Legion Department of Florida website, <http://www.floridalegion.org>, last viewed on January 19, 2011.

that required for the Distinguished Service Cross, but must have been performed with marked distinction.<sup>27</sup>

### ***Combat Infantryman Badge***

The Combat Infantryman Badge is the U.S. Army combat service recognition decoration awarded to soldiers—enlisted men and officers (commissioned and warrant) holding colonel rank or below, who personally fought in active ground combat while an assigned member of either an infantry or a Special Forces unit, of brigade size or smaller, any time after December 6, 1941.<sup>28</sup> The Combat Infantryman Badge and its non-combat analogue, the infantry skill-recognition Expert Infantryman Badge were simultaneously established by Section I, War Department Circular 269, dated October 27, 1943.<sup>29</sup> The Combat Infantryman Badge was created during World War II with the primary goal of recognizing the combat service and sacrifices of the infantrymen who would likely be wounded or killed in numbers disproportionate to those of soldiers from the Army's other service branches.<sup>30</sup>

Combat Infantryman Badge recipients must have met the following criteria to have been awarded this honor as provided by the Army's regulation regarding military awards:<sup>31</sup>

- Be an infantryman satisfactorily performing infantry duties.
- Assigned to an infantry unit during such time as the unit is engaged in active ground combat.
- Actively participate in such ground combat. Campaign or battle credit alone is not sufficient for the award of the Combat Infantry Badge.

### ***Korean Conflict***

World War II divided the Korean Peninsula at the 38th parallel. In 1950, communist North Korea invaded democratic South Korea. Military forces of the United States and other member states of the United Nations came to the aid of South Korea when the Soviet-supplied North Korean forces quickly overwhelmed the South Korean defenses. The Korean Conflict is characterized by General Douglas MacArthur's daring strategy of an amphibious landing at Inchon and pincer-movement to push back the North Koreans. This strategy was valiantly and successfully executed by American and allied forces in the face of almost certain defeat. After quickly recapturing Seoul, the South Korean capital, the conflict continued until an armistice was signed on July 27, 1953. The conflict was particularly notable for the conditions under which it was fought, including difficult terrain and brutal weather conditions.

Approximately 1.8 million U.S. servicemembers were deployed to the Korean theater of war, with 33,739 dying in battle and 103,284 suffering non-mortal wounds. There are almost 2.3 million living Korean Conflict veterans, with 169,254 living in Florida.<sup>32</sup>

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<sup>27</sup> Paragraph 3-10b, Army Regulation 600-8-22. [http://www.apd.army.mil/pdffiles/r600\\_8\\_22.pdf](http://www.apd.army.mil/pdffiles/r600_8_22.pdf) .

<sup>28</sup> <http://www.army.mil/symbols/CombatBadges/infantry.html>

<sup>29</sup> <http://cibassoc.com/history/history-of-the-combat-infantrymans-badge/>

<sup>30</sup> *Id.*

<sup>31</sup> Paragraph 8-6a(1)-(3), Army Regulation 600-8-22.

<sup>32</sup> *Fast Facts*, Florida Department of Veterans' Affairs, <http://www.floridavets.org/>

### ***Vietnam War***

The Geneva Accords dividing Vietnam into a communist north and democratic south were signed in July of 1954. The rationale developed by the Eisenhower Administration to explain its economic and military support of South Vietnam became known as the “domino theory.” Likening the countries of southeast Asia to a row of dominos, the President argued that if one country fell, it would trigger the fall of others.<sup>33</sup> Thus, the United States began to endorse and support South Vietnam’s effort to defend against the communist North.

The U.S. initially supported South Vietnam in an advisory role but, by the mid-1960s, U.S. military forces were directly involved in combat operations against the North, in which over the course of the war, more than 3 million Americans were deployed to Southeast Asia.<sup>34</sup> American involvement in the war began to decline after the Paris Peace Accords were signed on January 27, 1973. The U.S. completed withdrawal of its ground troops from Vietnam on March 30, 1973, but thousands of U.S. support personnel remained in Vietnam. All remaining U.S. personnel were evacuated when Saigon fell on April 30, 1975.<sup>35</sup>

Military involvement in Vietnam, and the neighboring countries of Laos and Cambodia, resulted in the deaths of 58,220 U.S. service members, 1,952 of whom were from Florida.<sup>36</sup> An additional 153,303 U.S. service members required hospital care as a result of wounds.<sup>37</sup> There are approximately 7.5 million surviving veterans of the Vietnam War era,<sup>38</sup> with approximately 454,000 residing in Florida.<sup>39</sup>

### **Proposed Changes**

Section 4 of the bill amends s. 320.08056, F.S., to provide for collection of a \$25 annual use fee for an American Legion specialty license plate.

Section 5 of the bill amends s. 320.08058, F.S., to require DHSMV to develop an American Legion license plate when the American Legion meets the requirements of s. 320.08053, F.S. Annual use fees received from the new license plate will be distributed to the American Legion, Department of Florida until startup costs have been reimbursed. After that time, the proceeds are to be distributed as follows:

- 60% to the American Legion, Department of Florida, to support Boys State in Florida, the Veteran Affairs and Rehabilitation program, and the Gilchrist Endowment Fund. Also, up to 10% of the 60% distributed to the American Legion can be used for administration and marketing of the license plate.

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<sup>33</sup> The War in Vietnam, 1954-1964; <http://faculty.smu.edu/dsimon/Change-Viet.html>.

<sup>34</sup> *Statistics at a Glance*, Dep’t of Veterans Affairs (as of 1/17/2012) and *America’s Wars*, Dep’t of Veterans Affairs (May 2010) available at: [http://www1.va.gov/opa/publications/factsheets/fs\\_americas\\_wars.pdf](http://www1.va.gov/opa/publications/factsheets/fs_americas_wars.pdf)

<sup>35</sup> U.S. Congress, President, and Florida Legislature recognize May 7, 1975, as the end of the Vietnam War (for purpose of veteran affairs). Text at: <http://www.gpo.gov/fdsys/pkg/CFR-2005-title45-vol3/pdf/CFR-2005-title45-vol3-sec506-10.pdf>; 14 Fla. Prac., Elder Law § 14:5 (2010-11 ed.).

<sup>36</sup> <http://thewall-usa.com/summary.asp>

<sup>37</sup> Anne Leland; Mari-Jana "M-J" Oboroceanu, American War and Military Operations: Casualties: Lists and Statistics, Congressional Research Service, <http://www.fas.org/sgp/crs/natsec/RL32492.pdf> (February 26, 2010); <http://siadapp.dmdc.osd.mil/personnel/CASUALTY/castop.htm>

<sup>38</sup> *Supra* note 31.

<sup>39</sup> *Fast Facts*, Florida Dep’t of Veterans’ Affairs, <http://www.floridavets.org/>.

- 20% to the FDVA's direct-support organization created under s. 292.055, F.S.
- 20% to the Department of Military Affairs' direct-support organization created under s. 250.115, F.S.

Section 6 of the bill amends s. 320.089, F.S., to require the manufacture and issuance of special use license plates available exclusively to Combat Infantry Badge recipients, Korean Conflict veterans, and Vietnam War veterans. This section allows any recipient of the Combat Infantry Badge who applies for the special license plate, pays the applicable license taxes provided in s. 320.08, F.S., and provides proof of membership in the Combat Infantrymen's Association, Inc., or other acceptable proof of being a Combat Infantry Badge recipient, to be issued a license plate stamped with the words "Combat Infantry Badge."

Current or former members of the U.S. military who were deployed and served in Vietnam during U.S. military deployment in Indochina will be entitled to obtain a license plate stamped with the words "Vietnam War Veteran." An eligible veteran must submit an application for the special license plate, provide proof of active membership or former active duty status during the operations in Indochina, and pay the applicable license taxes provided in s. 320.08, F.S.

Former members of the U.S. military who were deployed and served in Korea during U.S. military deployment in Korea will be entitled to obtain a license plate stamped with the words "Korean Conflict Veteran." An eligible veteran must submit an application for the special license plate, provide proof of active membership or former active duty status during the operations in Korea, and pay the applicable license taxes provided in s. 320.08, F.S.

Although it is evident that the Korean Conflict Veteran and Vietnam War Veteran license plates are intended to be issued to those who served during periods of military conflict, neither of the eligibility requirements includes time frames for the service.

Section 7 of the bill creates s. 320.0892, F.S., to authorize issuance of special use license plates for recipients of the Distinguished Service Cross, Navy Cross, Air Force Cross, or Silver Star. This section of the bill has an effective date of October 1, 2012.

### **Government Fiscal Impact**

According to DHSMV, costs to produce the "Combat Infantry Badge" Special Use plate are minimal and can be absorbed within existing resources. It is unknown how many Florida residents are Combat Infantry Badge recipients who will apply for this license plate. DHSMV has not assessed its costs to produce the Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star, Korean Conflict Veteran, and Vietnam War Veteran special use plates. It is likely that the costs of production for these plates would be similar to those of the Combat Infantry Badge special use plate. Tax Collectors will have to maintain an adequate inventory of the license plates and issue them to qualified recipients.

The fiscal impact of the establishment of the American Legion specialty license plate on the DHSMV is unknown at this time.

DHSMV's Information Systems Administration (ISA) will require approximately 120 hours to implement the provisions of this section. These hours can be incorporated into ISA's normal workload.<sup>40</sup>

### **SECTION 8: PURPLE HEART DAY**

Section 8 of the bill creates s. 683.146, F.S.

#### **Present Situation**

##### ***Legal Holidays and Special Observance Days***

Chapter 683, F.S., establishes legal holidays and special observance days. Legal holidays and special observance days may apply throughout the state or may be limited to particular counties. For example, "Gasparilla Day"<sup>41</sup> is a legal holiday observed only in Hillsborough County while "Bill of Rights Day,"<sup>42</sup> if proclaimed by the Governor, is observed throughout the entire state. The legal holidays established in s. 683.01(1), F.S., are:

- (a) Sunday, the first day of each week.
- (b) New Year's Day, January 1.
- (c) Birthday of Martin Luther King, Jr., January 15.
- (d) Birthday of Robert E. Lee, January 19.
- (e) Lincoln's Birthday, February 12.
- (f) Susan B. Anthony's Birthday, February 15.
- (g) Washington's Birthday, the third Monday in February.
- (h) Good Friday.
- (i) Pascua Florida Day, April 2.
- (j) Confederate Memorial Day, April 26.
- (k) Memorial Day, the last Monday in May.
- (l) Birthday of Jefferson Davis, June 3.
- (m) Flag Day, June 14.
- (n) Independence Day, July 4.
- (o) Labor Day, the first Monday in September.
- (p) Columbus Day and Farmers' Day, the second Monday in October.
- (q) Veterans' Day, November 11.
- (r) General Election Day.
- (s) Thanksgiving Day, the fourth Thursday in November.
- (t) Christmas Day, December 25.
- (u) Shrove Tuesday, sometimes also known as "Mardi Gras," in counties where carnival associations are organized for the purpose of celebrating the same.

<sup>40</sup> Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 528 Analysis* (October 25, 2011) (on file with the Senate Transportation Committee).

<sup>41</sup> Section 683.08, F.S.

<sup>42</sup> Section 683.25, F.S.

Designation of a day as a legal holiday does not necessarily make that day a paid holiday for public employees. Section 110.117, F.S., establishes the legal holidays that are paid holidays for public employees.<sup>43</sup>

In addition to legal holidays, Chapter 683, F.S., recognizes the following special observances: Arbor Day; Pan-American Day; Pascua Florida Day; Gasparilla Day; DeSoto Day; Grandparents' and Family Caregivers' Day; Law Enforcement Appreciation Month; Law Enforcement Memorial Day; Parade Day; State Observance of National Day of Mourning; Patriots' Day; I Am An American Day; Teachers' Day; Retired Teachers' Day; Parents' and Children's Day; Save the Florida Panther Day; Rosh Hashanah, Yom Kippur, and Good Friday; Florida Jewish History Month; Juneteenth Day; Law Day and Law Week; Florida Missing Children's Day; Florida Alzheimer's Disease Day; Bill of Rights Day; Ronald Reagan Day; Homeless Persons' Memorial Day; Three Kings Day; Child Welfare Professionals Recognition Day; and Drowsy Drivers Prevention Week established by the Ronshay Dugan's Act.<sup>44</sup>

### ***The Purple Heart***

The Purple Heart was originally awarded exclusively for meritorious service and is the nation's oldest military award.<sup>45</sup> It was first introduced as the "Badge of Military Merit" by General George Washington on August 7, 1782, during the Revolutionary War.<sup>46</sup> This award was ignored for nearly 150 years before it was re-established per General Order No. 3, on February 22, 1932, in commemoration of the 200th anniversary of George Washington's birth.

Current eligibility and conditions for the award of the Purple Heart are defined in Army Regulation 600-8-22, which provides that the Purple Heart is awarded in the name of the President of the United States to any member of the U.S. Armed Forces who, while serving under component authority in any capacity with one of the U.S. Armed Services after April 5, 1917, has been wounded or killed, or who has died or may hereafter die after being wounded:

- (1) In any action against an enemy of the US.
- (2) In any action with an opposing armed force of a foreign country in which the Armed Forces of the US are or have been engaged.
- (3) While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the US is not a belligerent party.
- (4) As a result of an act of any such enemy of opposing armed forces.
- (5) As the result of an act of any hostile foreign force.
- (6) After March 28, 1973, as a result of an international terrorist attack against the US or a foreign nation friendly to the US, recognized as such an attack by the Secretary of the Army, or jointly by the

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<sup>43</sup> "Legal holidays" are not necessarily the same as "paid holidays" for governmental employees. Section 110.117(1), F.S., provides the following holidays as paid holidays for all state branches and agencies: New Year's Day; Martin Luther King Birthday; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day and Friday after Thanksgiving; and Christmas Day.

<sup>44</sup> Sections 683.04 – 683.332, F.S.

<sup>45</sup> For more information on the Purple Heart, see: [http://www.tioh.hqda.pentagon.mil/Awards/purple\\_heart.aspx](http://www.tioh.hqda.pentagon.mil/Awards/purple_heart.aspx).

<sup>46</sup> Paragraph 2-8(a), Army Regulation 600-8-22.

Secretaries of the separate armed services concerned if persons from more than one service are wounded in the attack.

- (7) After March 28, 1972, as a result of military operations while serving outside the territory of the US as part of the peacekeeping force.<sup>47</sup>

The Purple Heart is ranked immediately behind the Bronze Star Medal<sup>48</sup> and ahead of the Defense Meritorious Service Medal<sup>49</sup> in order of precedence,<sup>50</sup> however it is generally acknowledged to be among the most aesthetically pleasing of American awards and decorations.<sup>51</sup> The National Purple Heart Hall of Honor estimates that 1.7 million Purple Hearts have been awarded.<sup>52</sup>

### **Proposed Changes**

Section 8 of the bill creates s. 683.146, F.S., to designate August 7 of each year as “Purple Heart Day” and authorizes the Governor to annually issue a proclamation designating August 7 as “Purple Heart Day.” Public officials, schools, private organizations, and all residents of Florida are also encouraged to commemorate “Purple Heart Day” and honor those who have been wounded or killed while serving in any branch of the United States Armed Forces.

### **SECTIONS 9-13: VETERANS COURTS**

Sections 9-13 of the bill constitute the T. Patt Maney Veterans’ Treatment Intervention Act. The Act creates an unnumbered statute that authorizes creation of military veterans and servicemembers court programs and amends ss. 948.08, 946.16, and 948.21, F.S.

### **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:

<sup>47</sup> Paragraph 2-8(b), Army Regulation 600-8-22.

<sup>48</sup> The Bronze Star Medal is awarded to a person in any branch of the military service who, while serving in any capacity with the Armed Forces of the United States on or after December 7, 1941, has distinguished himself or herself by heroic or meritorious achievement or service, not involving participation in aerial flight, in connection with military operations against an armed enemy. For more information, see: [http://www.tioh.hqda.pentagon.mil/Awards/bronze\\_star.aspx](http://www.tioh.hqda.pentagon.mil/Awards/bronze_star.aspx) and Paragraph 3-14, Army Regulation 600-8-22.

<sup>49</sup> The Defense Meritorious Service Medal is awarded in the name of the Secretary of Defense to members of the Armed Forces of the United States who, after 3 November 1977, distinguished themselves by noncombat meritorious achievement or service. For more information, see: [http://www.tioh.hqda.pentagon.mil/Awards/defense\\_meritorious.aspx](http://www.tioh.hqda.pentagon.mil/Awards/defense_meritorious.aspx) and Paragraph 2-5, and Army Regulation 600-8-22.

<sup>50</sup> Paragraph 29-6, Army Regulation 670-1. See also [http://www.tioh.hqda.pentagon.mil/Awards/order\\_of\\_precedence.aspx](http://www.tioh.hqda.pentagon.mil/Awards/order_of_precedence.aspx)

<sup>51</sup> U.S. Army Center of Military History website. *The Badge of Military Merit / The Purple Heart*. Available at: <http://www.history.army.mil/html/reference/purhrt.html>.

<sup>52</sup> The National Purple Heart Hall of Honor website. *Frequently Asked Questions*. Available at: <http://www.thepurpleheart.com/faqs/>.

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%
<b>Total</b>	<b>4986</b>	<b>1740</b>	<b>6726</b>	<b>100%</b>

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.<sup>53</sup> 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 sections 4-7 of 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, possession of marijuana, loitering, worthless checks, disorderly conduct, domestic violence, resisting an officer, and petit theft.<sup>54</sup> 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.<sup>55</sup>

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

<sup>53</sup> 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.

<sup>54</sup> Email from Okaloosa County Judge Pat Maney to legislative staff dated February 11, 2011.

<sup>55</sup> *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](http://www.co.travis.tx.us/constables/4/pdfs/vip_jail_survey_report.pdf), last viewed on September 28, 2011.

veterans and their families.<sup>56</sup> 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.”<sup>57</sup> The study also estimated that approximately 29,000 returning veterans residing in Florida may suffer from PTSD or some form of major depression.<sup>58</sup>

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.<sup>59</sup> A person with any of these disorders also has a greater likelihood of experiencing other psychiatric diagnoses than do other persons.<sup>60</sup>

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.<sup>61</sup> 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 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.<sup>62</sup> The National Association of Drug Court Professionals website indicates that there are veterans’ courts in 73 cities or counties nationwide.<sup>63</sup>

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<sup>56</sup> 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](http://www.helppromotehope.com/documents/Veterans_Green_Paper.pdf), last viewed on September 28, 2011.

<sup>57</sup> Ibid, p. 5.

<sup>58</sup> Ibid, p. 5.

<sup>59</sup> 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](http://www.rand.org/pubs/working_papers/2008/RAND_WR546.pdf), last viewed on September 28, 2011.

<sup>60</sup> Ibid, p. 127.

<sup>61</sup> 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](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.

<sup>62</sup> 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.

<sup>63</sup> 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.

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.<sup>64</sup>

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.<sup>65</sup> 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.<sup>66</sup>

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.<sup>67</sup>

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.<sup>68</sup>

### ***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.<sup>69</sup> 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

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<sup>64</sup> *Supra* note 46, ABA Commission on Homelessness and Poverty, Report on Resolution 105A, p. 2.

<sup>65</sup> 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](http://www.flcourts.org/gen_public/family/drug_court/bin/taskforcereport.pdf), last viewed on September 28, 2011.

<sup>66</sup> "Drug Courts in Florida," [http://www.flcourts.org/gen\\_public/family/drug\\_court/map.shtml](http://www.flcourts.org/gen_public/family/drug_court/map.shtml), last viewed on September 28, 2011.

<sup>67</sup> "Drug Court Funding Opportunities," [http://www.flcourts.org/gen\\_public/family/drug\\_court/bin/Funding.pdf](http://www.flcourts.org/gen_public/family/drug_court/bin/Funding.pdf), last viewed on September 28, 2011.

<sup>68</sup> 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.

<sup>69</sup> See <http://www.justiceforvets.org>, last viewed on September 29, 2011.

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.<sup>70</sup>

The Palm Beach County veterans' docket began operating in November 2010.<sup>71</sup> 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.<sup>72</sup>

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 goals through the use of existing programs, including referral of veteran's to existing drug and mental health courts.<sup>73</sup>

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

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<sup>70</sup> "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.

<sup>71</sup> 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.

<sup>72</sup> 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.

<sup>73</sup> Courts Assisting Veterans, 12th Judicial Circuit, <http://www.cavs12.org/home.aspx>, last viewed on September 29, 2011.

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.<sup>74</sup>

### **Proposed Changes**

#### ***Military Veterans and Servicemembers Court Program***

Section 10 of the bill authorizes the chief judge of each judicial circuit to establish a military veterans and servicemembers court program. The program would apply to veterans<sup>75</sup> and servicemembers<sup>76</sup> who suffer from a service-related mental illness, TBI, substance use disorder,<sup>77</sup> or psychological problem and who are charged with or convicted of a criminal offense.

The bill provides that upon conviction the veteran or servicemember can be sentenced in a way that addresses the severity of the condition through services targeted to the individual's needs. Admission into a court program would be based on the judge's assessment of the defendant's criminal history, military service, need for substance use treatment, need for mental health treatment, amenability to services offered by the program, the advisory recommendation of the

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<sup>74</sup> 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.

<sup>75</sup> The bill specifies that the term "veteran" is used as defined in s. 1.01(14), F.S., which is "a person who served in the active military, naval, or air service and who was discharged or released there from under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the U.S. Department of Veterans Affairs on individuals discharged or released with other than honorable discharges."

<sup>76</sup> The bill specifies that the term "servicemember" is used as defined in s. 250.01(19), F.S., which is "any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces."

<sup>77</sup> Substance use disorders include substance abuse and substance dependence. See VA/DOD Clinical Practice Guideline: Management of Substance Use Disorders, August 2009, available at [http://www.healthquality.va.gov/sud/sud\\_full\\_601f.pdf](http://www.healthquality.va.gov/sud/sud_full_601f.pdf), (last viewed on January 19, 2011).

state attorney and of any victim, and the veteran's or servicemember's agreement to enter the program.

***Pretrial Veterans' Treatment Intervention Programs***

Sections 11 and 12 of the bill create felony and misdemeanor pre-trial diversion programs for veterans and servicemembers who are suffering from a military service-related mental illness, TBI, substance use disorder, or psychological problems. The provisions in this section would make these persons 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 11 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. This section of 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 two 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.

Section 12 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.

Additionally, both sections 11 and 12 require 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 of the felony diversion program, the court must consider recommendations for disposition made by the treatment program and the state attorney. 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.

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, section 11 of the bill does not include this requirement for felony pretrial veterans treatment intervention programs, and section 12 provides an exception for contracting with 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 or servicemember as a result of his or her military service.

The bill expressly provides that a veteran or servicemember who successfully completes a pretrial diversion program can have his or her arrest record for the dismissed charges expunged under s. 943.0585, F.S., if otherwise eligible to do so.

### ***Special Condition of Probation or Community Control***

Section 13 of the bill relates to veterans or servicemembers who suffer from a military service-related mental illness, TBI, substance use disorder, or psychological problem and who are placed on probation or community control for a crime committed on or after July 1, 2012. The bill specifies that the sentencing court may impose a special condition of probation requiring such a defendant to participate in a treatment program that is capable of treating his or her condition. In doing so, the court must give preference to treatment programs for which the defendant is eligible through the DVA and the FDVA.

### **Government Fiscal Impact**

Section 10 of the bill authorizes establishment of a military veterans and servicemembers court program in each judicial circuit. It is not known how many circuits would implement the authority, but it is anticipated that it would be done within existing funding.

Sections 11-12 of the bill create 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 sections 11-12 is indeterminate as the number of veterans to be served as well as the type and frequency of services is unknown. If sections 11-12 divert 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.

Section 13 of the bill explicitly states authority that is already inherently possessed by sentencing courts. Therefore, it would not appear to have any additional fiscal impact.

The Criminal Justice Impact Conference has not assessed the impact of the revised bill on the state prison population.

#### **SECTION 14: SCHOOL ZONES FOR CHILDREN OF MILITARY FAMILIES**

Section 14 of the bill amends s. 1003.05, F.S.

##### **Present Situation**

###### ***Military Presence in Florida***

The United States currently has 1.4 million people serving in the armed forces, over 23 million veterans living in the U.S., and over 200 military installations in 46 states, the District of Columbia, and Puerto Rico. In addition, there are more than 400,000 National Guard members throughout the 50 states, the District of Columbia, and commonwealths and territories. The military operations of the United States touch every state in some manner.<sup>78</sup> In Florida, there are 22 military bases, over 58,000 active duty military personnel, and over 37,000 Reserve and National Guard personnel.

Military families often face frequent moves and these moves can add unique challenges for children transitioning from school to school. According to the Council of State Governments, the average military student<sup>79</sup> faces transition challenges more than twice during high school, and most military children will have six to nine different school systems in their lives from kindergarten to 12th grade.<sup>80</sup> With more than half of all military personnel supporting families, the challenges of reassignment and long deployments are key considerations when making long-term life choices for military children and include the following.<sup>81</sup>

- Transfer of records;
- Course sequencing;
- Graduation requirements;
- Exclusion from extracurricular activities;
- Redundant or missed entrance/exit tests;
- Kindergarten and first grade entrance age variations; and
- Power of custodial parents while parents are deployed.

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<sup>78</sup> National Conference of State Legislatures, *Military Personnel, Veterans and Their Families*, available at: <http://www.ncsl.org/default.aspx?TabID=123&tabs=858,137,1160#858>, last viewed on January 4, 2012.

<sup>79</sup> Section 1003.05, F.S., provides that the term "military student" refers to school-aged dependents of military personnel.

<sup>80</sup> Council of State Governments, *See* [http://www.csg.org/programs/policyprograms/NCIC/interstatecompact\\_militarychildren\\_edop.aspx](http://www.csg.org/programs/policyprograms/NCIC/interstatecompact_militarychildren_edop.aspx), last viewed on January 4, 2012.

<sup>81</sup> *Id.*

As of January 5, 2012, there were 31,115 children of military families<sup>82</sup> in the Florida public school system. The counties with the highest concentration of military children include:

- Duval (5,656)
- Okaloosa (5,223)
- Hillsborough (4,352)
- Brevard (3,319)<sup>83</sup>

#### ***Florida's Efforts to Assist Transitioning Military Students***

While the majority of programs and benefits for soldiers and veterans are administered by the federal government, states are playing an increasing role in military issues. With many active duty military members and National Guard and Reservists and their families facing multiple deployments, state policymakers are creating benefits and programs designed to assist military personnel and their families.<sup>84</sup>

#### ***Interstate Compact on Educational Opportunity for Military Children***

The State of Florida, along with 34 other states, has enacted the Interstate Compact on Educational Opportunity for Military Children (compact).<sup>85</sup> The purpose of the compact is to enable member states to uniformly address educational transition issues faced by military families, including eligibility, enrollment, placement, and graduation.<sup>86</sup>

#### ***Section 1003.05, F.S. – Assistance to transitioning students from military families***

Section 1003.05(1), F.S., states that the Legislature recognizes the challenges faced by military students and requires the Florida Department of Education (department) to assist in the transition of high school students from military families by:

- Improving the timely transfer of records;
- Developing systems to ease student transition during the first 2 weeks of enrollment;
- Promoting practices which foster access to extracurricular programs;
- Establish procedures to lessen the adverse impact of moves;
- Encourage or continue partnerships between military bases and school systems;
- Providing services for transitioning students when applying to and finding funding for postsecondary study; and
- Providing other assistance as identified by the department, school, and military personnel.

The department is further required to facilitate the development and implementation of memoranda of agreement between school districts and military installations which address

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<sup>82</sup> “Children of military families” means school-aged children, enrolled in kindergarten through 12th grade, in the household of an active-duty member pursuant to s. 1000.36, F.S., (the Interstate Compact on Educational Opportunity for Military Children).

<sup>83</sup> Data received from an information request from the Florida Department of Education by professional staff of the Senate Military Affairs, Space, and Domestic Security Committee, January 5, 2012.

<sup>84</sup> *Supra* note. 68.

<sup>85</sup> Section 1000.36, F.S.

<sup>86</sup> Council of State Governments. Military Moves. Available at:

<http://www.csg.org/knowledgecenter/docs/sn0802MilitaryMoves.pdf>, last viewed January 4, 2012.

strategies for assisting students who are children of active duty military personnel in the transition to Florida schools.

Finally, s. 1003.05(3), F.S., provides children of active duty military personnel who otherwise meet the eligibility criteria for special academic programs offered through public schools first preference for admission to such programs even if the program is being offered through a public school other than the school to which the student would generally be assigned.

### ***School District Attendance Zoning***

Section 1001.41(6), F.S., provides each district school board the authority to assign students to schools within a district.<sup>87</sup> Therefore, school district attendance zoning is performed at the local level and each school district implements its own policies relating to school attendance zoning.

### **Proposed Changes**

Section 10 of the bill amends s. 1003.05, F.S., to allow a military student the option of remaining at the school he or she currently attends if a local school board adjusts school zones, which requires attendance at a different school for that military student.

## **SECTIONS 15-16: PRIORITY COURSE REGISTRATION FOR VETERANS**

Sections 15-16 of the bill create ss. 1004.075 and 1005.09, F.S.

### **Present Situation**

#### ***Priority Course Registration***

Priority course registration allows designated groups of students at colleges and universities to register for courses for an upcoming semester before the entire student population is able to register. Some examples of groups of students who may typically be eligible for priority course registration at institutions that implement such a policy include: upper division students; student athletes; students with disabilities; honor college students; and student veterans.

Postsecondary institutions are currently not required to offer veterans of the U.S. Armed Forces priority when registering for courses based on their status as a veteran.<sup>88</sup> Rather, it is at the discretion of both public<sup>89</sup> and private<sup>90</sup> institutions of higher education whether or not to offer priority course registration and to determine which groups of students would be eligible.<sup>91</sup> If an

<sup>87</sup> Section 1001.30, F.S., provides that each county shall constitute a school district.

<sup>88</sup> Section 1.01(14), F.S., defines the term “veteran” as a person who served in the active military, naval, or air service and who was discharged or released there from under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the U.S. Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.

<sup>89</sup> There are 11 public universities within the State University System of Florida and 28 institutions in the Florida College System.

<sup>90</sup> The private postsecondary institutions eligible to provide training for veterans include 375 institutions licensed by the Commission for Independent Education (CIE) pursuant to s. 1005.21, F.S., and 31 independent, non-profit colleges and universities which are exempt from licensure by CIE.

<sup>91</sup> For public universities, the Florida Board of Governor’s Regulation 1.001(4)(a)3. authorizes the board of trustees of each state university to adopt university regulations or policies relating to the admission and enrollment of students, which could include priority course registration policies. Section 1007.263, F.S., governs admission of students to Florida College System institutions.

institution does not offer priority registration for veterans, students who are veterans register for courses at the same time as the general student population.<sup>92</sup> It is common for a veteran to have put higher education on hold when he or she makes the decision to serve in the U.S. Armed Forces.

### ***Veterans in Florida***

Florida's population of 1.6 million veterans is the third largest in the nation, after California and Texas.<sup>93</sup> More specifically, Florida is home to approximately 127,000 veterans whose ages range from 18-34, which demonstrates a significant concentration of "college age" veterans who may be interested in pursuing higher education, either at the undergraduate or the graduate level. As the fourth largest state in the nation, Florida offers a broad range of opportunities for those pursuing higher education, in the public and private postsecondary sectors. Veterans interested in utilizing their GI Bill benefits<sup>94</sup> can choose from a selection of 445 postsecondary institutions in deciding on an institution to attend.

Both nationwide and in Florida, there has recently been an influx of veterans on college campuses. Nationwide the number of veterans enrolling in college has increased to approximately 800,000 veterans using the GI Bill in 2010, which is up 40 percent from 2009.<sup>95</sup> Likewise, there is a large student veteran presence in universities and colleges in Florida. For the 2010 academic year, 7,047 veterans were enrolled within the State University System (SUS) of Florida,<sup>96</sup> 17,453 within the Florida College System (FCS),<sup>97</sup> 4,490 at private non-profit institutions,<sup>98</sup> and 16,500 at private for-profit institutions.<sup>99</sup>

### ***Federal Education Benefits for Veterans***<sup>100</sup>

The U.S. Department of Veterans Affairs (VA) administers a variety of education benefit programs, commonly known as the GI Bill, for veterans pursuing higher education.<sup>101</sup> The most commonly utilized GI Bill benefits include the Montgomery GI Bill<sup>102</sup> and the Post-9/11 GI

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<sup>92</sup> The following public colleges and universities currently offer priority course registration for veterans: Florida International University; Florida State University; the University of South Florida; Tallahassee Community College; St. Petersburg College; Northwest Florida State College; and Miami-Dade College (Senate Military Affairs, Space, and Domestic Security Committee staff E-mail correspondence with SUS and FCS staff September 27, 2011).

<sup>93</sup> Florida Department of Veterans' Affairs. 2009-10 Annual Report. Available at: [http://www.floridavets.org/pdf/ann\\_rprt\\_10.pdf](http://www.floridavets.org/pdf/ann_rprt_10.pdf).

<sup>94</sup> GI Bill benefits refer to the financial support for tuition and housing provided to veterans by the U.S. Department of Veterans Affairs.

<sup>95</sup> *Vets go from Combat to Campus* by Trevor Hughes, USA Today, April 12, 2011 from [http://www.usatoday.com/news/education/2011-04-11-college-vets\\_N.htm](http://www.usatoday.com/news/education/2011-04-11-college-vets_N.htm).

<sup>96</sup> State University System of Florida, *Senate Bill 94 Analysis* (September 20, 2011) (On file with the Senate Military Affairs, Space, and Domestic Security Committee).

<sup>97</sup> E-mail correspondence with Florida College System staff September 23, 2011.

<sup>98</sup> Email correspondence with ICUF staff September 23, 2011, and 2010-11 ICUF Accountability Report.

<sup>99</sup> E-mail correspondence with CIE staff, November 2, 2011.

<sup>100</sup> For more information on federal education benefits for veterans, see: <http://www.gibill.va.gov/benefits/index.html>.

<sup>101</sup> For more information, see <http://www.gibill.va.gov/benefits/index.html>.

<sup>102</sup> Chapter 30 of Title 38, U.S. Code.

Bill.<sup>103</sup> The Post-9/11 GI Bill is the most recent adaptation of the GI Bill and offers substantially enhanced financial assistance compared to the Montgomery GI Bill.<sup>104</sup>

The Post-9/11 GI Bill offers an unprecedented level of benefits in providing financial support for education and housing to individuals with at least 90 days of aggregate service on or after September 11, 2001, or individuals discharged with a service-connected disability after 30 days. A service member must have received an honorable discharge to be eligible for the Post-9/11 GI Bill. The Post-9/11 GI Bill covers the cost of tuition and fees, not to exceed the most expensive in-state undergraduate tuition at a public institution of higher education.<sup>105</sup> The Post-9/11 GI Bill provides veterans with 36 months of education benefits which expire 15 years from a veteran's last period of active duty of at least 90 consecutive days.<sup>106</sup>

For Post-9/11 GI Bill users attending a private school or a public school as a non-resident out-of-state student, the VA offers the Yellow Ribbon Program to help reimburse the difference. Under the Yellow Ribbon Program, institutions of higher learning voluntarily enter into an agreement with the VA to fund tuition and fee expenses that exceed the highest public in-state undergraduate tuition and fee rate in their state.<sup>107</sup>

The Post-9/11 GI Bill also includes the Transfer of Post-9/11 GI-Bill Benefits to the Dependents program which allows an individual to transfer Post-9/11 GI Bill benefits to the individual's spouse, one or more of the individual's children, or any combination of spouse and child. An eligible service member may transfer up to the total months of unused Post-9/11 GI Bill benefits, or the entire 36 months if the member has used none.

### **Proposed Changes**

Section 11 of the bill requires institutions within the FCS and the SUS that offer priority course registration for a segment of the student population (or upon the establishment of such policy) to provide priority course registration to veterans of the U.S. Armed Forces. In addition, such institutions are also required to provide priority course registration to the spouse or dependent child of a veteran to whom GI Bill educational benefits have been transferred.

Section 11 further provides that an eligible veteran is entitled to priority course registration for the duration of his or her attendance at an FCS institution and state university if priority registration is offered. Additionally, a spouse or dependent child is eligible for priority registration until the expiration of the GI Bill educational benefits.

Section 12 of the bill encourages independent postsecondary institutions that are under the jurisdiction of the Commission for Independent Education (Commission) or exempt from the jurisdiction of the Commission to provide the same benefit of priority course registration to

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<sup>103</sup> Chapter 33 of Title 38, U.S. Code.

<sup>104</sup> Congress passed the Post-9/11 Veterans Educational Assistance Act in June 2008, which came to be known as the Post-9/11 GI Bill.

<sup>105</sup> In addition to graduate and undergraduate degrees, individuals may use the Post-9/11 GI Bill benefits towards vocational/technical training, on-the-job training, flight training, correspondence training, licensing and national testing programs, and tutorial assistance.

<sup>106</sup> Post-9/11 GI Bill Pamphlet. Available at: [http://www.gibill.va.gov/documents/pamphlets/ch33\\_pamphlet.pdf](http://www.gibill.va.gov/documents/pamphlets/ch33_pamphlet.pdf).

<sup>107</sup> [http://www.gibill.va.gov/benefits/post\\_911\\_gibill/index.html](http://www.gibill.va.gov/benefits/post_911_gibill/index.html).

veterans or their spouses or dependents as public colleges and universities are required to provide under s. 1004.075, F.S., (section 11 of the bill as discussed above).

### **Government Fiscal Impact**

The SUS and the FCS expect a minimal fiscal impact as a result of sections 11-12 of the bill. Both systems acknowledge that minimal expenses may occur due to additional administrative staff time that would be spent to notify and process eligible veteran students.

## **SECTION 17: RESIDENT STATUS FOR TUITION PURPOSES FOR VETERANS**

Section 17 of the bill amends s. 1009.21, F.S.

### **Present Situation**

#### ***Florida Law on Resident for Tuition Purposes Status***

Florida law classifies postsecondary students as residents or nonresidents to determine the applicable tuition rate at higher education institutions within the FCS and the SUS. A “resident for tuition purposes” is a student who qualifies for in-state tuition.<sup>108</sup>

A student who is not a dependent qualifies for in-state tuition if the following requirements are met:

- The student must have established and maintained in-state legal residence for a minimum of 12 consecutive months immediately prior to the student’s initial enrollment; and
- The student must make a statement that residency was established to maintain a bona fide domicile rather than to set up a temporary residence just to qualify for in-state tuition.

To establish in-state status, non-dependent applicants must produce at least two documents evidencing residency, including at least one of the following:

- A voter’s registration card;
- A driver’s license;
- An identification card;
- A vehicle registration;
- Proof of a permanent home occupied as a primary residence by the student;
- Proof of homestead exemption;
- High school transcripts if the diploma or GED is from the last 12 months; or
- Proof of permanent full-time employment for a duration of 12 months.<sup>109</sup>

To show in-state residency, the applicant may produce:

- A declaration of domicile;
- A state professional or occupational license;
- State incorporation;

<sup>108</sup> Section 1009.21(1)(g), F.S.

<sup>109</sup> Section 1009.21(2)(c)1., F.S.

- A document evidencing family ties in the state;
- Evidence of membership in a state-based charity or professional organization;
- Other documentation that evidences residency, such as energy bills or a lease agreement with demonstrated 12-month payments; or
- An official state, federal, or court document showing legal ties to the state.<sup>110</sup>

Section 1009.21(10) F.S., provides eleven categories in which individuals who meet certain criteria are automatically considered residents of the state for tuition purposes and are exempt from the 12-month residency requirement. As it relates to service in the U.S. Armed Services, persons who qualify as the following are considered residents for tuition purposes in Florida:

- active duty members of the U.S. Armed Services residing or stationed in Florida and their spouses and dependent children, and active drilling members of the Florida National Guard; and
- active duty members of the U.S. Armed Services and their spouses and dependents attending a public college or state university within 50 miles of the military establishment where they are stationed, if such military establishment is within a county contiguous to Florida.

Currently, veterans of the U.S. Armed Services are not eligible to obtain resident status for tuition purposes based on their status as a veteran. Veterans qualify as residents for tuition purposes through the standard document review process outlined in s. 1009.21, F.S.

### ***Veterans in Florida***

Section 1.01(14), F.S., defines the term veteran as:

[A] person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.

Florida has the third largest population of veterans in the nation with more than 1.6 million. Only California and Texas have larger populations of veterans.<sup>111</sup> The FDVA estimates that there are roughly 200,000 Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn service members and veterans who claim Florida as their home of record. The proportion of veterans and active duty service members that constitute the 200,000 estimate cannot be determined.

Nationwide the number of veterans enrolling in college is increasing with approximately 800,000 veterans using the GI Bill in 2010, which is up 40 percent from 2009.<sup>112</sup> Likewise, there is a

<sup>110</sup> Section 1009.21(2)(c)2., F.S.

<sup>111</sup> Florida Department of Veterans' Affairs. 2009-10 Annual Report. Available at: [http://www.floridavets.org/pdf/ann\\_rprt\\_10.pdf](http://www.floridavets.org/pdf/ann_rprt_10.pdf)

<sup>112</sup> USA Today article: *Vets Go From Combat to Campus* by Trevor Hughes. April 12, 2011. Available at: [www.usatoday.com/news/education/2011-04-11-college-vets\\_N.htm](http://www.usatoday.com/news/education/2011-04-11-college-vets_N.htm)

large student veteran presence in public universities and colleges in Florida. For the 2010 academic year, there were 7,047 veterans who attended a SUS institution. As of December 2010, there were 17,517 students within the FCS who utilized GI Bill benefits.<sup>113</sup>

### ***Post-9/11 GI Bill***

The United States Department of Veteran Affairs provides financial assistance programs to eligible veterans pursuing a post-secondary degree. The most recent version of the GI Bill, the Post-9/11 GI Bill,<sup>114</sup> provides qualified veterans<sup>115</sup> with the cost of tuition and fees, not to exceed the most expensive in-state undergraduate tuition at a public institution in the state in which the veteran is attending school.<sup>116</sup> Currently in Florida, a veteran who is not classified as a resident for tuition purposes and who wishes to apply the Post-9/11 GI Bill benefits towards a degree program at a public higher education institution in Florida will be billed as a non-resident student. Since the Post-9/11 GI Bill only covers the highest in-state undergraduate tuition, the veteran would be responsible for the costs that exceed the in-state tuition amount.<sup>117</sup>

### **Proposed Changes**

Section 17 of the bill amends s. 1009.21, F.S., to allow veterans of the U.S. Armed Services who physically attend a public college, university or institution of higher learning in Florida, to be automatically classified as a resident of the state for tuition purposes.

A veteran who does not meet the standard Florida residency requirements for tuition purposes will be immediately classified as a resident for tuition purposes and therefore, will be entitled to the in-state tuition rate at all public universities and colleges in Florida.

### **Government Fiscal Impact**

The SUS estimates the provisions in section 15 of the bill will result in a total tuition revenue loss of \$6,859,396.<sup>118</sup> Additionally, the SUS anticipates an increase in the number of veterans coming to Florida to attend college postsecondary institutions. The lost tuition revenue will likely increase, as will the need to provide adequate student services to the additional veterans.<sup>119</sup> The FCS acknowledges that Florida colleges would experience a potential funding loss due to the reclassification of non-resident student veterans to resident status, but lacked the data needed to provide an estimate of the fiscal impact.<sup>120</sup>

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<sup>113</sup>E-mail correspondence with Florida College System staff. July 5, 2011.

<sup>114</sup> For more information about the Post-9/11 GI Bill visit: [http://www.gibill.va.gov/benefits/post\\_911\\_gibill/index.html](http://www.gibill.va.gov/benefits/post_911_gibill/index.html).

<sup>115</sup> To qualify for the Post-9/11 GI Bill benefit, an individual must have served an aggregate 90 days of aggregate active duty service after September 10, 2001, or must have been honorably discharged with a service-connected disability after 30 days of continuous service. The period of eligibility ends 15 years from the date of the last discharge or release from active duty service.

<sup>116</sup> The Post-9/11 GI Bill also provides a monthly housing allowance and a yearly stipend for books and supplies.

<sup>117</sup> The Post-9/11 GI Bill can also be applied to vocational/technical training, on-the-job training, flight training, correspondence training, licensing and national testing programs, and tutorial assistance.

<sup>118</sup> State University System of Florida, *Senate Bill 922 Analysis* (October 25, 2011) (on file with the Senate Military Affairs, Space, and Domestic Security Committee).

<sup>119</sup> *Id.*

<sup>120</sup> Senate Military Affairs, Space, and Domestic Security Committee staff E-mail correspondence with Florida College System staff. September 13, 2011.

**SECTION 18: EFFECTIVE DATE**

Section 15 of the bill provides that the act shall take effect on July 1, 2012, with the exception of Section 4 (which provides for the Combat Infantry Badge and Vietnam War Veterans license plates), which takes effect on October 1, 2012.

**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:**

**Section 1: National Guard Employment Tax Credit Program** provides financial incentives in the form of tax credits to incentivize employers to hire unemployed members of the Florida National Guard. This section would provide unemployed guardsmen more employment opportunities and would also allow qualified businesses to obtain tax credits.

**Section 3: Business Enterprise Opportunities for Wartime Veterans** would assist wartime veterans in competing for state contracts and procurements by expanding the small service-disabled veteran business enterprise certification program to include wartime veterans.

**Section 5: Specialty License Plates** would require persons who purchase an American Legion license plate to pay an annual use fee as required in s. 320.08056, F.S.

**Sections 6-7: Special Use License Plates** would require persons who purchase a Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star, Combat Infantry Badge, Korean Conflict Veteran, or Vietnam War Veteran special use license plate to pay applicable taxes as provided in s. 320.08, F.S.

**Sections 10 – 13: Veterans Courts** would have an impact on the private sector to the extent that participants are diverted from incarceration into private treatment programs.

**Section 17: Resident Status for Tuition Purposes for Veterans** would allow veterans who do not meet the standard Florida residency requirements for tuition purposes to pay less in tuition with the immediate entitlement to in-state tuition rates. In addition, veterans who utilize the Post-9/11 GI Bill and are not considered residents of Florida for tuition purposes would not be liable for the excess out-of-state tuition costs and fees that would otherwise not be covered by the federal benefit.

C. Government Sector Impact:

**Section 1: National Guard Employment Tax Credit Program**

Section 1 of the bill establishes the National Guard Employment Tax Credit Program. This program allows an eligible business which employs a current member of the Florida National Guard who has been unemployed for more than 6 months or is returning from duty abroad, to be eligible to receive a \$10,000 tax credit. The program is capped at \$5 million per fiscal year and is set to expire after 2 years. The number of businesses that will take advantage of this tax credit and the number guardsmen to whom this section applies is unknown. The Revenue Estimating Conference has not yet addressed the provisions contained in this section of the bill.

The fiscal impact on the Department of Economic Opportunity and the Department of Revenue is indeterminate. This section of the bill increases the workload of the Department of Economic Opportunity and the Department of Revenue, so it is possible these agencies may require additional FTEs and updated software.

**Section 2: Florida Veterans' Hall of Fame**

Section 2 of the bill provides for the establishment of the Florida Veterans Hall of Fame Council. Although members of the council may not receive compensation for their services, they are entitled to reimbursement for travel expenses incurred in the performance of their duties.

**Section 3: Business Enterprise Opportunities for Wartime Veterans**

The DMS estimates that the provisions of section 1 will result in nonrecurring costs of \$10,000 to implement the changes in MyFloridaMarketPlace and an estimated \$30,000 related to the additional workload for processing certifications for wartime veteran businesses; however, it is unknown how many "wartime veteran-owned" businesses are located in Florida and how many of those businesses would apply for certification. Since these numbers are unknown, the cost to implement section 1 of the bill is unknown at this time.

**Section 4-7: License Plates**

According to DHSMV, costs to produce the Combat Infantry Badge special use plate are minimal and can be absorbed within existing resources. It is unknown how many Florida residents are Combat Infantry Badge recipients who will apply for this license plate. DHSMV has not assessed its costs to produce the Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star, Korean Conflict Veteran, and Vietnam War Veteran special use plates. It is likely that the costs of production for these plates would be similar to those of the Combat Infantry Badge special use plate. Tax Collectors will have to maintain an adequate inventory of the license plates and issue them to qualified recipients. Also, the DHSMV's Information Systems Administration (ISA) will require approximately 120 hours to implement the provisions of this section. These hours can be incorporated into ISA's normal workload.<sup>121</sup>

The fiscal impact of the establishment of the American Legion license plate on the DHSMV is unknown at this time. The amount of proceeds that will be distributed to the FDVA and the Department of Military Affairs direct support organizations is also unknown.

**Sections 10-13: Veterans Courts**

Section 10 of the bill authorizes establishment of a military veterans and servicemembers court program in each judicial circuit. It is not known how many circuits would implement the authority, but is anticipated that it would be done within existing funding.

Sections 11-12 of the bill create 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 sections 11-12 is indeterminate as the number of veterans to be served as well as the type and frequency of services is unknown. If sections 11-12 divert 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.

Section 13 of the bill explicitly states authority that is already inherently possessed by sentencing courts. Therefore, it would not appear to have any additional fiscal impact.

The Criminal Justice Impact Conference has not assessed the impact of the revised bill on the state prison population.

**Sections 15-16: Priority Course Registration for Veterans.**

The State University System of Florida and the Florida College System expect a minimal fiscal impact as a result of the provisions in sections 9-10. Both systems acknowledge that minimal expenses may occur due to additional administrative staff time that would be spent to notify and process eligible veteran students.

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<sup>121</sup> Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 528 Analysis* (October 25, 2011) (on file with the Senate Transportation Committee).

**Section 17: Resident Status for Tuition Purposes for Veterans**

The State University System of Florida estimates the provisions in section 11 will result in a total tuition revenue loss of \$6,859,396.<sup>122</sup> Additionally, the SUS anticipates an increase in the number of veterans coming to Florida to attend college postsecondary institutions. The lost tuition revenue will likely increase, as will the need to provide adequate student services to the additional veterans.<sup>123</sup> The Florida College System acknowledges that Florida colleges would experience a potential funding loss due to the reclassification of non-resident student veterans to resident status, but lacked the data needed to provide an estimate of the fiscal impact.<sup>124</sup>

**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.)

**CS by Criminal Justice on January 19, 2012:**

- Authorizes special use license plates for recipients of the Distinguished Service Cross, the Navy Cross, the Air Force Cross, the Silver Star, and veterans of the Korean Conflict or the Vietnam War; and a specialty license plate for the American Legion.
- Removes the requirement for sentencing courts to conduct a veterans status hearing
- Expands eligibility for veterans' court and veterans' pretrial intervention programs to include all veterans and servicemembers.
- Removes a provision allowing any veteran of the U.S. Armed Forces who was a resident of Florida four years before entering military service and who holds an associate degree or has earned at least 60 college credit hours from a Florida College System institution to be admitted to any Florida College System institution or state university of the veteran's choice.

**CS by Military Affairs, Space, and Domestic Security on January 9, 2012:**

- Establishes the National Guard Employment Tax Credit Program.
- Creates the Florida Veterans' Hall of Fame Council to facilitate the induction of nominees to the existing Florida Veterans' Hall of Fame.
- Establishes the Vietnam War Veteran special use license plate.

<sup>122</sup> State University System of Florida, *Senate Bill 922 Analysis* (October 25, 2011) (on file with the Senate Military Affairs, Space, and Domestic Security Committee).

<sup>123</sup> *Id.*

<sup>124</sup> Senate Military Affairs, Space, and Domestic Security Committee staff E-mail correspondence with Florida College System staff. September 13, 2011.

- Revises the bill to allow all veterans to be eligible for priority course registration as opposed to only veterans using GI Bill educational benefits.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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