

By the Committee on Judiciary; and Senators Diaz de la Portilla and Hutson

590-01331-16

2016604c1

1 A bill to be entitled
2 An act relating to mental health services in the
3 criminal justice system; amending s. 394.47891, F.S.;
4 expanding eligibility for military veterans and
5 servicemembers court programs; creating s. 394.47892,
6 F.S.; authorizing the funding for mental health court
7 programs; providing legislative intent; providing for
8 eligibility; providing program requirements; providing
9 requirements for mental health court programs and
10 counties that participate in the program; requiring
11 the state courts system to establish at least one
12 coordinator position in each mental health court
13 program, contingent upon an annual appropriation;
14 annually report to the Office of the State Courts
15 Administrator specified data, programmatic
16 information, and aggregate data; providing for an
17 advisory committee; amending s. 910.035, F.S.;
18 revising the definition of the term "problem-solving
19 court"; amending s. 916.106, F.S.; redefining the term
20 "court" to include county courts in certain
21 circumstances; amending s. 916.17, F.S.; authorizing a
22 county court to order the conditional release of a
23 defendant for the provision of outpatient care and
24 treatment; creating s. 916.185, F.S.; creating the
25 Forensic Hospital Diversion Pilot Program; providing
26 legislative findings and intent; providing
27 definitions; authorizing the Department of Children
28 and Families to implement a Forensic Hospital
29 Diversion Pilot Program in specified judicial

590-01331-16

2016604c1

30 circuits; providing for funding; providing for
31 eligibility for the program; providing legislative
32 intent concerning training; authorizing rulemaking;
33 amending s. 948.001, F.S.; defining the term "mental
34 health probation"; amending ss. 948.01 and 948.06,
35 F.S.; authorizing courts to order certain offenders on
36 probation or community control to postadjudicatory
37 mental health court programs; amending s. 948.08,
38 F.S.; expanding eligibility requirements for certain
39 pretrial intervention programs; providing for
40 voluntary admission into a pretrial mental health
41 court program; amending s. 948.16, F.S.; expanding
42 eligibility of veterans for a misdemeanor pretrial
43 veterans' treatment intervention program; providing
44 eligibility of misdemeanor defendants for a
45 misdemeanor pretrial mental health court program;
46 amending s. 948.21, F.S.; expanding veterans'
47 eligibility for participating in treatment programs
48 while on court-ordered probation or community control;
49 amending s. 985.345, F.S.; authorizing pretrial mental
50 health court programs for certain juvenile offenders;
51 providing for disposition of pending charges after
52 completion of the pretrial intervention program;
53 expanding the services for which an entity must enter
54 into a contract with specified governmental entities
55 if such entity provides such services; reenacting ss.
56 394.658(1)(a) and 916.16(2), F.S., relating to
57 diverting individuals from judicial commitment to
58 community-based service programs and the jurisdiction

590-01331-16

2016604c1

59 of committing courts, respectively, to incorporate the
60 amendment made to s. 916.17, F.S., in references
61 thereto; reenacting s. 397.334(3)(a) and (5), F.S.,
62 relating to treatment-based drug court programs, to
63 incorporate the amendments made to ss. 948.01 and
64 948.06, F.S., in references thereto; reenacting s.
65 948.012(2)(b), F.S., relating to split sentence
66 probation or community control and imprisonment, to
67 incorporate the amendment made to s. 948.06, F.S., in
68 a reference thereto; providing an effective date.
69

70 Be It Enacted by the Legislature of the State of Florida:
71

72 Section 1. Section 394.47891, Florida Statutes, is amended
73 to read:

74 394.47891 Military veterans and servicemembers court
75 programs.—The chief judge of each judicial circuit may establish
76 a Military Veterans and Servicemembers Court Program under which
77 veterans, as defined in s. 1.01, including veterans who were
78 discharged or released under a general discharge, and
79 servicemembers, as defined in s. 250.01, who are charged or
80 convicted of a criminal offense and who suffer from a military-
81 related mental illness, traumatic brain injury, substance abuse
82 disorder, or psychological problem can be sentenced in
83 accordance with chapter 921 in a manner that appropriately
84 addresses the severity of the mental illness, traumatic brain
85 injury, substance abuse disorder, or psychological problem
86 through services tailored to the individual needs of the
87 participant. Entry into any Military Veterans and Servicemembers

590-01331-16

2016604c1

88 Court Program must be based upon the sentencing court's
89 assessment of the defendant's criminal history, military
90 service, substance abuse treatment needs, mental health
91 treatment needs, amenability to the services of the program, the
92 recommendation of the state attorney and the victim, if any, and
93 the defendant's agreement to enter the program.

94 Section 2. Section 394.47892, Florida Statutes, is created
95 to read:

96 394.47892 Mental health court programs.-

97 (1) Each county may fund a mental health court program
98 under which a defendant in the justice system assessed with a
99 mental illness shall be processed in such a manner as to
100 appropriately address the severity of the identified mental
101 illness through treatment services tailored to the individual
102 needs of the participant. The Legislature intends to encourage
103 the department, the Department of Corrections, the Department of
104 Juvenile Justice, the Department of Health, the Department of
105 Law Enforcement, the Department of Education, and other such
106 agencies, local governments, law enforcement agencies,
107 interested public or private entities, and individuals to
108 support the creation and establishment of problem-solving court
109 programs. Participation in a mental health court program does
110 not relieve a public or private agency of its responsibility for
111 a child or an adult, but enables such agency to better meet the
112 child's or adult's needs through shared responsibility and
113 resources.

114 (2) Mental health court programs may include pretrial
115 intervention programs as provided in ss. 948.08, 948.16, and
116 985.345, postadjudicatory mental health court programs as

590-01331-16

2016604c1

117 provided in ss. 948.01 and 948.06, and review of the status of
118 compliance or noncompliance of sentenced defendants through a
119 mental health court program.

120 (3) Entry into a pretrial mental health court program is
121 voluntary.

122 (4) (a) Entry into a postadjudicatory mental health court
123 program as a condition of probation or community control
124 pursuant to s. 948.01 or s. 948.06 must be based upon the
125 sentencing court's assessment of the defendant's criminal
126 history, mental health screening outcome, amenability to the
127 services of the program, and total sentence points; the
128 recommendation of the state attorney and the victim, if any; and
129 the defendant's agreement to enter the program.

130 (b) A defendant who is sentenced to a postadjudicatory
131 mental health court program and who, while a mental health court
132 program participant, is the subject of a violation of probation
133 or community control under s. 948.06 shall have the violation of
134 probation or community control heard by the judge presiding over
135 the postadjudicatory mental health court program. After a
136 hearing on or admission of the violation, the judge shall
137 dispose of any such violation as he or she deems appropriate if
138 the resulting sentence or conditions are lawful.

139 (5) (a) Contingent upon an annual appropriation by the
140 Legislature, the state courts system shall establish, at a
141 minimum, one coordinator position in each mental health court
142 program to coordinate the responsibilities of the participating
143 agencies and service providers. Each coordinator shall provide
144 direct support to the mental health court program by providing
145 coordination between the multidisciplinary team and the

590-01331-16

2016604c1

146 judiciary, providing case management, monitoring compliance of
147 the participants in the mental health court program with court
148 requirements, and managing the collection of data for program
149 evaluation and accountability.

150 (b) Each mental health court program shall collect
151 sufficient client-level data and programmatic information for
152 purposes of program evaluation. Client-level data include
153 primary offenses that resulted in the mental health court
154 program referral or sentence, treatment compliance, completion
155 status and reasons for failure to complete, offenses committed
156 during treatment and the sanctions imposed, frequency of court
157 appearances, and units of service. Programmatic information
158 includes referral and screening procedures, eligibility
159 criteria, type and duration of treatment offered, and
160 residential treatment resources. The programmatic information
161 and aggregate data on the number of mental health court program
162 admissions and terminations by type of termination shall be
163 reported annually by each mental health court program to the
164 Office of the State Courts Administrator.

165 (6) If a county chooses to fund a mental health court
166 program, the county must secure funding from sources other than
167 the state for those costs not otherwise assumed by the state
168 pursuant to s. 29.004. However, this subsection does not
169 preclude counties from using funds for treatment and other
170 services provided through state executive branch agencies.
171 Counties may provide, by interlocal agreement, for the
172 collective funding of these programs.

173 (7) The chief judge of each judicial circuit may appoint an
174 advisory committee for the mental health court program. The

590-01331-16

2016604c1

175 committee shall be composed of the chief judge, or his or her
176 designee, who shall serve as chair; the judge of the mental
177 health court program, if not otherwise designated by the chief
178 judge as his or her designee; the state attorney, or his or her
179 designee; the public defender, or his or her designee; the
180 mental health court program coordinators; community
181 representatives; treatment representatives; and any other
182 persons who the chair deems appropriate.

183 Section 3. Paragraph (a) of subsection (5) of section
184 910.035, Florida Statutes, is amended to read:

185 910.035 Transfer from county for plea, sentence, or
186 participation in a problem-solving court.—

187 (5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—

188 (a) For purposes of this subsection, the term "problem-
189 solving court" means a drug court pursuant to s. 948.01, s.
190 948.06, s. 948.08, s. 948.16, or s. 948.20; a military veterans'
191 and servicemembers' court pursuant to s. 394.47891, s. 948.08,
192 s. 948.16, or s. 948.21; ~~or~~ a mental health court program
193 pursuant to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s.
194 948.16; or a delinquency pretrial intervention court program
195 pursuant to s. 985.345.

196 Section 4. Subsection (5) of section 916.106, Florida
197 Statutes, is amended to read:

198 916.106 Definitions.—For the purposes of this chapter, the
199 term:

200 (5) "Court" means the circuit court and includes a county
201 court ordering the conditional release of a defendant as
202 provided in s. 916.17.

203 Section 5. Subsection (1) of section 916.17, Florida

590-01331-16

2016604c1

204 Statutes, is amended to read:

205 916.17 Conditional release.—

206 (1) Except for an inmate currently serving a prison
207 sentence, the committing court may order a conditional release
208 of any defendant in lieu of an involuntary commitment to a
209 facility pursuant to s. 916.13 or s. 916.15 based upon an
210 approved plan for providing appropriate outpatient care and
211 treatment. A county court may order the conditional release of a
212 defendant for purposes of the provision of outpatient care and
213 treatment only. Upon a recommendation that outpatient treatment
214 of the defendant is appropriate, a written plan for outpatient
215 treatment, including recommendations from qualified
216 professionals, must be filed with the court, with copies to all
217 parties. Such a plan may also be submitted by the defendant and
218 filed with the court with copies to all parties. The plan shall
219 include:

220 (a) Special provisions for residential care or adequate
221 supervision of the defendant.

222 (b) Provisions for outpatient mental health services.

223 (c) If appropriate, recommendations for auxiliary services
224 such as vocational training, educational services, or special
225 medical care.

226

227 In its order of conditional release, the court shall specify the
228 conditions of release based upon the release plan and shall
229 direct the appropriate agencies or persons to submit periodic
230 reports to the court regarding the defendant's compliance with
231 the conditions of the release and progress in treatment, with
232 copies to all parties.

590-01331-16

2016604c1

233 Section 6. Section 916.185, Florida Statutes, is created to
234 read:

235 916.185 Forensic Hospital Diversion Pilot Program.—

236 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
237 that many jail inmates who have serious mental illnesses and who
238 are committed to state forensic mental health treatment
239 facilities for restoration of competency to proceed could be
240 served more effectively and at less cost in community-based
241 alternative programs. The Legislature further finds that many
242 people who have serious mental illnesses and who have been
243 discharged from state forensic mental health treatment
244 facilities could avoid returning to the criminal justice and
245 forensic mental health systems if they received specialized
246 treatment in the community. Therefore, it is the intent of the
247 Legislature to create the Forensic Hospital Diversion Pilot
248 Program to serve offenders who have mental illnesses or co-
249 occurring mental illnesses and substance use disorders and who
250 are involved in or at risk of entering state forensic mental
251 health treatment facilities, prisons, jails, or state civil
252 mental health treatment facilities.

253 (2) DEFINITIONS.—As used in this section, the term:

254 (a) "Best practices" means treatment services that
255 incorporate the most effective and acceptable interventions
256 available in the care and treatment of offenders who are
257 diagnosed as having mental illnesses or co-occurring mental
258 illnesses and substance use disorders.

259 (b) "Community forensic system" means the community mental
260 health and substance use forensic treatment system, including
261 the comprehensive set of services and supports provided to

590-01331-16

2016604c1

262 offenders involved in or at risk of becoming involved in the
263 criminal justice system.

264 (c) "Evidence-based practices" means interventions and
265 strategies that, based on the best available empirical research,
266 demonstrate effective and efficient outcomes in the care and
267 treatment of offenders who are diagnosed as having mental
268 illnesses or co-occurring mental illnesses and substance use
269 disorders.

270 (3) CREATION.—There is created a Forensic Hospital
271 Diversion Pilot Program to provide competency-restoration and
272 community-reintegration services in either a locked residential
273 treatment facility when appropriate or a community-based
274 facility based on considerations of public safety, the needs of
275 the individual, and available resources.

276 (a) The department may implement a Forensic Hospital
277 Diversion Pilot Program modeled after the Miami-Dade Forensic
278 Alternative Center, taking into account local needs and
279 resources, in Escambia County, in conjunction with the First
280 Judicial Circuit in Escambia County; in Hillsborough County, in
281 conjunction with the Thirteenth Judicial Circuit in Hillsborough
282 County; and in Miami-Dade County, in conjunction with the
283 Eleventh Judicial Circuit in Miami-Dade County.

284 (b) If the department elects to create and implement the
285 program, the department shall include a comprehensive continuum
286 of care and services that use evidence-based practices and best
287 practices to treat offenders who have mental health and co-
288 occurring substance use disorders.

289 (c) The department and the corresponding judicial circuits
290 may implement this section if existing resources are available

590-01331-16

2016604c1

291 to do so on a recurring basis. The department may request budget
292 amendments pursuant to chapter 216 to realign funds between
293 mental health services and community substance abuse and mental
294 health services in order to implement this pilot program.

295 (4) ELIGIBILITY.—Participation in the Forensic Hospital
296 Diversion Pilot Program is limited to offenders who:

297 (a) Are 18 years of age or older.

298 (b) Are charged with a felony of the second degree or a
299 felony of the third degree.

300 (c) Do not have a significant history of violent criminal
301 offenses.

302 (d) Are adjudicated incompetent to proceed to trial or not
303 guilty by reason of insanity pursuant to this part.

304 (e) Meet public safety and treatment criteria established
305 by the department for placement in a community setting.

306 (f) Otherwise would be admitted to a state mental health
307 treatment facility.

308 (5) TRAINING.—The Legislature encourages the Florida
309 Supreme Court, in consultation and cooperation with the Florida
310 Supreme Court Task Force on Substance Abuse and Mental Health
311 Issues in the Courts, to develop educational training for judges
312 in the pilot program areas which focuses on the community
313 forensic system.

314 (6) RULEMAKING.—The department may adopt rules to
315 administer this section.

316 Section 7. Present subsections (6) through (13) of section
317 948.001, Florida Statutes, are renumbered as subsections (7)
318 through (14), respectively, and new subsection (6) is added to
319 that section, to read:

590-01331-16

2016604c1

320 948.001 Definitions.—As used in this chapter, the term:

321 (6) "Mental health probation" means a form of specialized
322 supervision that emphasizes mental health treatment and working
323 with treatment providers to focus on the underlying mental
324 health disorders and compliance with a prescribed psychotropic
325 medication regimen in accordance with individualized treatment
326 plans. Mental health probation shall be supervised by officers
327 with restricted caseloads who are sensitized to the unique needs
328 of individuals with mental health disorders, and who will work
329 in tandem with community mental health case managers assigned to
330 the defendant. Caseloads of such officers should be restricted
331 to a maximum of 50 cases per officer in order to ensure an
332 adequate level of staffing and supervision.

333 Section 8. Subsection (8) is added to section 948.01,
334 Florida Statutes, to read:

335 948.01 When court may place defendant on probation or into
336 community control.—

337 (8) (a) Notwithstanding s. 921.0024 and effective for
338 offenses committed on or after July 1, 2016, the sentencing
339 court may place the defendant into a postadjudicatory mental
340 health court program if the offense is a nonviolent felony, the
341 defendant is amenable to mental health treatment, including
342 taking prescribed medications, and the defendant is otherwise
343 qualified under s. 394.47892(4). The satisfactory completion of
344 the program must be a condition of the defendant's probation or
345 community control. As used in this subsection, the term
346 "nonviolent felony" means a third degree felony violation under
347 chapter 810 or any other felony offense that is not a forcible
348 felony as defined in s. 776.08. Defendants charged with

590-01331-16

2016604c1

349 resisting an officer with violence under s. 843.01, battery on a
350 law enforcement officer under s. 784.07, or aggravated assault
351 may participate in the mental health court program if the court
352 so orders after the victim is given his or her right to provide
353 testimony or written statement to the court as provided in s.
354 921.143.

355 (b) The defendant must be fully advised of the purpose of
356 the mental health court program and the defendant must agree to
357 enter the program. The original sentencing court shall
358 relinquish jurisdiction of the defendant's case to the
359 postadjudicatory mental health court program until the defendant
360 is no longer active in the program, the case is returned to the
361 sentencing court due to the defendant's termination from the
362 program for failure to comply with the terms thereof, or the
363 defendant's sentence is completed.

364 (c) The Department of Corrections may establish designated
365 and trained mental health probation officers to support
366 individuals under supervision of the mental health court
367 program.

368 Section 9. Paragraph (j) is added to subsection (2) of
369 section 948.06, Florida Statutes, to read:

370 948.06 Violation of probation or community control;
371 revocation; modification; continuance; failure to pay
372 restitution or cost of supervision.—

373 (2)

374 (j)1. Notwithstanding s. 921.0024 and effective for
375 offenses committed on or after July 1, 2016, the court may order
376 the offender to successfully complete a postadjudicatory mental
377 health court program under s. 394.47892 or a military veterans

590-01331-16

2016604c1

378 and servicemembers court program under s. 394.47891 if:

379 a. The court finds or the offender admits that the offender
380 has violated his or her community control or probation;

381 b. The underlying offense is a nonviolent felony. As used
382 in this subsection, the term "nonviolent felony" means a third
383 degree felony violation under chapter 810 or any other felony
384 offense that is not a forcible felony as defined in s. 776.08.
385 Offenders charged with resisting an officer with violence under
386 s. 843.01, battery on a law enforcement officer under s. 784.07,
387 or aggravated assault may participate in the mental health court
388 program if the court so orders after the victim is given his or
389 her right to provide testimony or written statement to the court
390 as provided in s. 921.143;

391 c. The court determines that the offender is amenable to
392 the services of a postadjudicatory mental health court program,
393 including taking prescribed medications, or a military veterans
394 and servicemembers court program;

395 d. The court explains the purpose of the program to the
396 offender and the offender agrees to participate; and

397 e. The offender is otherwise qualified to participate in a
398 postadjudicatory mental health court program under s.
399 394.47892(4) or a military veterans and servicemembers court
400 program under s. 394.47891.

401 2. After the court orders the modification of community
402 control or probation, the original sentencing court shall
403 relinquish jurisdiction of the offender's case to the
404 postadjudicatory mental health court program until the offender
405 is no longer active in the program, the case is returned to the
406 sentencing court due to the offender's termination from the

590-01331-16

2016604c1

407 program for failure to comply with the terms thereof, or the
408 offender's sentence is completed.

409 Section 10. Present subsection (8) of section 948.08,
410 Florida Statutes, is renumbered as subsection (9), paragraph (a)
411 of subsection (7) is amended, and a new subsection (8) is added
412 to that section, to read:

413 948.08 Pretrial intervention program.—

414 (7) (a) Notwithstanding any provision of this section, a
415 person who is charged with a felony, other than a felony listed
416 in s. 948.06(8)(c), and identified as a veteran, as defined in
417 s. 1.01, including a veteran who was discharged or released
418 under a general discharge, or servicemember, as defined in s.
419 250.01, who suffers from a military service-related mental
420 illness, traumatic brain injury, substance abuse disorder, or
421 psychological problem, is eligible for voluntary admission into
422 a pretrial veterans' treatment intervention program approved by
423 the chief judge of the circuit, upon motion of either party or
424 the court's own motion, except:

425 1. If a defendant was previously offered admission to a
426 pretrial veterans' treatment intervention program at any time
427 before trial and the defendant rejected that offer on the
428 record, the court may deny the defendant's admission to such a
429 program.

430 2. If a defendant previously entered a court-ordered
431 veterans' treatment program, the court may deny the defendant's
432 admission into the pretrial veterans' treatment program.

433 (8) (a) Notwithstanding any provision of this section, a
434 defendant is eligible for voluntary admission into a pretrial
435 mental health court program established pursuant to s. 394.47892

590-01331-16

2016604c1

436 and approved by the chief judge of the circuit for a period to
437 be determined by the court, based on the clinical needs of the
438 defendant, upon motion of either party or the court's own motion
439 if:

440 1. The defendant is identified as having a mental illness;

441 2. The defendant has not been convicted of a felony; and

442 3. The defendant is charged with:

443 a. A nonviolent felony that includes a third degree felony
444 violation of chapter 810 or any other felony offense that is not
445 a forcible felony as defined in s. 776.08;

446 b. Resisting an officer with violence under s. 843.01, if
447 the law enforcement officer and state attorney consent to the
448 defendant's participation;

449 c. Battery on a law enforcement officer under s. 784.07, if
450 the law enforcement officer and state attorney consent to the
451 defendant's participation; or

452 d. Aggravated assault, if the victim and state attorney
453 consent to the defendant's participation.

454 (b) At the end of the pretrial intervention period, the
455 court shall consider the recommendation of the program
456 administrator and the recommendation of the state attorney as to
457 disposition of the pending charges. The court shall determine,
458 by written finding, whether the defendant has successfully
459 completed the pretrial intervention program. If the court finds
460 that the defendant has not successfully completed the pretrial
461 intervention program, the court may order the person to continue
462 in education and treatment, which may include a mental health
463 program offered by a licensed service provider, as defined in s.
464 394.455, or order that the charges revert to normal channels for

590-01331-16

2016604c1

465 prosecution. The court shall dismiss the charges upon a finding
466 that the defendant has successfully completed the pretrial
467 intervention program.

468 Section 11. Present subsections (3) and (4) of section
469 948.16, Florida Statutes, are renumbered as subsections (4) and
470 (5), respectively, paragraph (a) of subsection (2) and present
471 subsection (4) of that section are amended, and a new subsection
472 (3) is added to that section, to read:

473 948.16 Misdemeanor pretrial substance abuse education and
474 treatment intervention program; misdemeanor pretrial veterans'
475 treatment intervention program; misdemeanor pretrial mental
476 health court program.-

477 (2) (a) A veteran, as defined in s. 1.01, including a
478 veteran who was discharged or released under a general
479 discharge, or servicemember, as defined in s. 250.01, who
480 suffers from a military service-related mental illness,
481 traumatic brain injury, substance abuse disorder, or
482 psychological problem, and who is charged with a misdemeanor is
483 eligible for voluntary admission into a misdemeanor pretrial
484 veterans' treatment intervention program approved by the chief
485 judge of the circuit, for a period based on the program's
486 requirements and the treatment plan for the offender, upon
487 motion of either party or the court's own motion. However, the
488 court may deny the defendant admission into a misdemeanor
489 pretrial veterans' treatment intervention program if the
490 defendant has previously entered a court-ordered veterans'
491 treatment program.

492 (3) A defendant who is charged with a misdemeanor and
493 identified as having a mental illness is eligible for voluntary

590-01331-16

2016604c1

494 admission into a misdemeanor pretrial mental health court
495 program established pursuant to s. 394.47892, approved by the
496 chief judge of the circuit, for a period to be determined by the
497 court, based on the clinical needs of the defendant, upon motion
498 of either party or the court's own motion.

499 (5)~~(4)~~ Any public or private entity providing a pretrial
500 substance abuse education and treatment program or mental health
501 court program under this section shall contract with the county
502 or appropriate governmental entity. The terms of the contract
503 shall include, but not be limited to, the requirements
504 established for private entities under s. 948.15(3). This
505 requirement does not apply to services provided by the
506 Department of Veterans' Affairs or the United States Department
507 of Veterans Affairs.

508 Section 12. Section 948.21, Florida Statutes, is amended to
509 read:

510 948.21 Condition of probation or community control;
511 military servicemembers and veterans.—

512 (1) Effective for a probationer or community controllee
513 whose crime is ~~was~~ committed on or after July 1, 2012, and who
514 is a veteran, as defined in s. 1.01, or servicemember, as
515 defined in s. 250.01, who suffers from a military service-
516 related mental illness, traumatic brain injury, substance abuse
517 disorder, or psychological problem, the court may, in addition
518 to any other conditions imposed, impose a condition requiring
519 the probationer or community controllee to participate in a
520 treatment program capable of treating the probationer's
521 ~~probationer~~ or community controllee's mental illness, traumatic
522 brain injury, substance abuse disorder, or psychological

590-01331-16

2016604c1

523 problem.

524 (2) Effective for a probationer or community controllee
525 whose crime is committed on or after July 1, 2016, and who is a
526 veteran, as defined in s. 1.01, including a veteran who was
527 discharged or released under a general discharge, or
528 servicemember, as defined in s. 250.01, who suffers from a
529 military service-related mental illness, traumatic brain injury,
530 substance abuse disorder, or psychological problem, the court
531 may, in addition to any other conditions imposed, impose a
532 condition requiring the probationer or community controllee to
533 participate in a treatment program capable of treating the
534 probationer's or community controllee's mental illness,
535 traumatic brain injury, substance abuse disorder, or
536 psychological problem.

537 (3) The court shall give preference to treatment programs
538 for which the probationer or community controllee is eligible
539 through the United States Department of Veterans Affairs or the
540 Florida Department of Veterans' Affairs. The Department of
541 Corrections is not required to spend state funds to implement
542 this section.

543 Section 13. Present subsection (4) of section 985.345,
544 Florida Statutes, is renumbered as subsection (7) and amended,
545 and new subsections (4), (5), and (6) are added to that section,
546 to read:

547 985.345 Delinquency pretrial intervention program.—

548 (4) Notwithstanding any other provision of law, a child who
549 has been identified as having a mental illness and who has not
550 been previously adjudicated for a felony is eligible for
551 voluntary admission into a delinquency pretrial mental health

590-01331-16

2016604c1

552 court program, established pursuant to s. 394.47892, approved by
553 the chief judge of the circuit, for a period to be determined by
554 the court, based on the clinical needs of the child, upon motion
555 of either party or the court's own motion if the child is
556 charged with:

557 (a) A misdemeanor;

558 (b) A nonviolent felony; for purposes of this paragraph,
559 the term "nonviolent felony" means a third degree felony
560 violation of chapter 810 or any other felony offense that is not
561 a forcible felony as defined in s. 776.08;

562 (c) Resisting an officer with violence under s. 843.01, if
563 the law enforcement officer and state attorney consent to the
564 child's participation;

565 (d) Battery on a law enforcement officer under s. 784.07,
566 if the law enforcement officer and state attorney consent to the
567 child's participation; or

568 (e) Aggravated assault, if the victim and state attorney
569 consent to the child's participation.

570 (5) At the end of the delinquency pretrial intervention
571 period, the court shall consider the recommendation of the state
572 attorney and the program administrator as to disposition of the
573 pending charges. The court shall determine, by written finding,
574 whether the child has successfully completed the delinquency
575 pretrial intervention program. If the court finds that the child
576 has not successfully completed the delinquency pretrial
577 intervention program, the court may order the child to continue
578 in an education, treatment, or monitoring program if resources
579 and funding are available or order that the charges revert to
580 normal channels for prosecution. The court may dismiss the

590-01331-16

2016604c1

581 charges upon a finding that the child has successfully completed
582 the delinquency pretrial intervention program.

583 (6) A child whose charges are dismissed after successful
584 completion of the mental health court program, if otherwise
585 eligible, may have his or her arrest record and plea of nolo
586 contendere to the dismissed charges expunged under s. 943.0585.

587 (7)~~(4)~~ Any entity, whether public or private, providing
588 pretrial substance abuse education, treatment intervention, drug
589 testing, or ~~and a mental health court urine monitoring~~ program
590 under this section must contract with the county or appropriate
591 governmental entity, and the terms of the contract must include,
592 but need not be limited to, the requirements established for
593 private entities under s. 948.15(3). It is the intent of the
594 Legislature that public or private entities providing substance
595 abuse education and treatment intervention programs involve the
596 active participation of parents, schools, churches, businesses,
597 law enforcement agencies, and the department or its contract
598 providers.

599 Section 14. For the purpose of incorporating the amendment
600 made by this act to section 916.17, Florida Statutes, in a
601 reference thereto, paragraph (a) of subsection (1) of section
602 394.658, Florida Statutes, is reenacted to read:

603 394.658 Criminal Justice, Mental Health, and Substance
604 Abuse Reinvestment Grant Program requirements.—

605 (1) The Criminal Justice, Mental Health, and Substance
606 Abuse Statewide Grant Review Committee, in collaboration with
607 the Department of Children and Families, the Department of
608 Corrections, the Department of Juvenile Justice, the Department
609 of Elderly Affairs, and the Office of the State Courts

590-01331-16

2016604c1

610 Administrator, shall establish criteria to be used to review
611 submitted applications and to select the county that will be
612 awarded a 1-year planning grant or a 3-year implementation or
613 expansion grant. A planning, implementation, or expansion grant
614 may not be awarded unless the application of the county meets
615 the established criteria.

616 (a) The application criteria for a 1-year planning grant
617 must include a requirement that the applicant county or counties
618 have a strategic plan to initiate systemic change to identify
619 and treat individuals who have a mental illness, substance abuse
620 disorder, or co-occurring mental health and substance abuse
621 disorders who are in, or at risk of entering, the criminal or
622 juvenile justice systems. The 1-year planning grant must be used
623 to develop effective collaboration efforts among participants in
624 affected governmental agencies, including the criminal,
625 juvenile, and civil justice systems, mental health and substance
626 abuse treatment service providers, transportation programs, and
627 housing assistance programs. The collaboration efforts shall be
628 the basis for developing a problem-solving model and strategic
629 plan for treating adults and juveniles who are in, or at risk of
630 entering, the criminal or juvenile justice system and doing so
631 at the earliest point of contact, taking into consideration
632 public safety. The planning grant shall include strategies to
633 divert individuals from judicial commitment to community-based
634 service programs offered by the Department of Children and
635 Families in accordance with ss. 916.13 and 916.17.

636 Section 15. For the purpose of incorporating the amendment
637 made by this act to section 916.17, Florida Statutes, in a
638 reference thereto, subsection (2) of section 916.16, Florida

590-01331-16

2016604c1

639 Statutes, is reenacted to read:

640 916.16 Jurisdiction of committing court.—

641 (2) The committing court shall retain jurisdiction in the
642 case of any defendant placed on conditional release pursuant to
643 s. 916.17. Such defendant may not be released from the
644 conditions of release except by order of the committing court.

645 Section 16. For the purpose of incorporating the amendments
646 made by this act to sections 948.01 and 948.06, Florida
647 Statutes, in a reference thereto, paragraph (a) of subsection
648 (3) and subsection (5) of section 397.334, Florida Statutes, are
649 reenacted to read:

650 397.334 Treatment-based drug court programs.—

651 (3) (a) Entry into any postadjudicatory treatment-based drug
652 court program as a condition of probation or community control
653 pursuant to s. 948.01, s. 948.06, or s. 948.20 must be based
654 upon the sentencing court's assessment of the defendant's
655 criminal history, substance abuse screening outcome, amenability
656 to the services of the program, total sentence points, the
657 recommendation of the state attorney and the victim, if any, and
658 the defendant's agreement to enter the program.

659 (5) Treatment-based drug court programs may include
660 pretrial intervention programs as provided in ss. 948.08,
661 948.16, and 985.345, treatment-based drug court programs
662 authorized in chapter 39, postadjudicatory programs as provided
663 in ss. 948.01, 948.06, and 948.20, and review of the status of
664 compliance or noncompliance of sentenced offenders through a
665 treatment-based drug court program. While enrolled in a
666 treatment-based drug court program, the participant is subject
667 to a coordinated strategy developed by a drug court team under

590-01331-16

2016604c1

668 subsection (4). The coordinated strategy may include a protocol
669 of sanctions that may be imposed upon the participant for
670 noncompliance with program rules. The protocol of sanctions may
671 include, but is not limited to, placement in a substance abuse
672 treatment program offered by a licensed service provider as
673 defined in s. 397.311 or in a jail-based treatment program or
674 serving a period of secure detention under chapter 985 if a
675 child or a period of incarceration within the time limits
676 established for contempt of court if an adult. The coordinated
677 strategy must be provided in writing to the participant before
678 the participant agrees to enter into a treatment-based drug
679 court program.

680 Section 17. For the purpose of incorporating the amendment
681 made by this act to section 948.06, Florida Statutes, in a
682 reference thereto, paragraph (b) of subsection (2) of section
683 948.012, Florida Statutes, is reenacted to read:

684 948.012 Split sentence of probation or community control
685 and imprisonment.—

686 (2) The court may also impose a split sentence whereby the
687 defendant is sentenced to a term of probation which may be
688 followed by a period of incarceration or, with respect to a
689 felony, into community control, as follows:

690 (b) If the offender does not meet the terms and conditions
691 of probation or community control, the court may revoke, modify,
692 or continue the probation or community control as provided in s.
693 948.06. If the probation or community control is revoked, the
694 court may impose any sentence that it could have imposed at the
695 time the offender was placed on probation or community control.
696 The court may not provide credit for time served for any portion

590-01331-16

2016604c1

697 of a probation or community control term toward a subsequent
698 term of probation or community control. However, the court may
699 not impose a subsequent term of probation or community control
700 which, when combined with any amount of time served on preceding
701 terms of probation or community control for offenses pending
702 before the court for sentencing, would exceed the maximum
703 penalty allowable as provided in s. 775.082. Such term of
704 incarceration shall be served under applicable law or county
705 ordinance governing service of sentences in state or county
706 jurisdiction. This paragraph does not prohibit any other
707 sanction provided by law.

708 Section 18. This act shall take effect July 1, 2016.