

**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.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

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BILL: SB 1424

INTRODUCER: Senator Gainer

SUBJECT: Court-ordered Treatment Programs

DATE: February 6, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tulloch</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Harkness</u>	<u>Sadberry</u>	<u>ACJ</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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## I. Summary:

SB 1424 expands the eligibility criteria for individuals who may participate in a military veterans' and servicemembers' court program, more commonly known as veterans' courts. A veterans' court is a problem-solving court providing treatment intervention to military veterans and servicemembers who are charged with or convicted of criminal offenses and who are also suffering military-related injuries, such as post-traumatic stress disorder, traumatic brain injury, or a substance abuse disorder. Currently, individuals who are eligible to participate in the veterans' court include honorably discharged veterans, generally discharged veterans, and active duty servicemembers. The bill expands participation eligibility by eliminating the requirement that a veteran be honorably or generally discharged. Instead, the bill provides that any veteran discharged or released under any condition is eligible to participate in a veteran's court.

Additionally, the bill expands participation eligibility to current or former United States defense contractors and current or former military members of a foreign allied country.

While the bill may increase the number of cases referred to veterans' courts, the bill does not have an impact on state revenues or expenditures.

The bill takes effect on October 1, 2019.

## II. Present Situation:

### Veterans' Courts for Criminal Offenders

Veterans' courts are problem-solving courts, modeled after drug courts, which are aimed at addressing the root causes of criminal behavior.<sup>1</sup> The purpose of veterans' courts is to divert

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<sup>1</sup> Florida Courts, *Problem-Solving Courts*, <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/> (last visited Jan. 21, 2018).

eligible defendants who are veterans or servicemembers into treatment programs for military-related conditions or war-related trauma, either before trial or at sentencing. Veterans' courts consider whether an individual's military-related condition, such as post-traumatic stress disorder, mental illness, traumatic brain injury, or substance abuse, can be addressed through a program specifically designed to serve the individual's needs.<sup>2</sup>

Veterans' courts implement the 10 key components required of drug courts<sup>3</sup> in Florida:

- Integration of alcohol, drug treatment, and mental health services into justice system case processing;
- Nonadversarial approach;
- Early identification of eligible participants;
- Continuum of services;
- Alcohol and drug testing for abstinence;
- Coordinated strategy for responses to participants' compliance;
- Ongoing judicial interaction;
- Monitoring and evaluation for program effectiveness;
- Interdisciplinary education; and
- Partnerships with stakeholders.<sup>4</sup>

Significantly, veterans' courts involve not only nonadversarial cooperation among "traditional partners found in drug courts, such as the judge, state attorney, public defender, case manager, treatment provider, probation, and law enforcement[.]" but also cooperation with "representatives of the Veterans Health Administration (VHA) and the Veterans Benefit Administration as well as State Departments of Veterans Affairs, Vet Centers, Veterans Service Organizations, Department of Labor, volunteer veteran mentors, and other veterans support groups."<sup>5</sup> Veterans' courts are also able to "leverage resources available from the U.S. Department of Veterans Affairs" to provide treatment and other services to veterans and servicemembers.<sup>6</sup>

### Florida's Veterans' Courts

In 2012, the Florida Legislature passed the "T. Patt Maney Veterans' Treatment Intervention Act."<sup>7</sup> The Act created the military veterans and servicemembers court program,<sup>8</sup> better known as veterans' courts.<sup>9</sup> Specifically, the Act authorizes the chief judge of each judicial circuit to

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<sup>2</sup> Section 394.47891, F.S.

<sup>3</sup> Section 397.334(4), F.S.

<sup>4</sup> See n. 3, *supra*, noting that "[t]he components of veterans courts, from The Ten Key Components of Veterans Treatment Court, Justice for Vets (a division of the National Association of Drug Court Professionals)[.]" See also Justice for Vets, *The Ten Key Components of Veterans Treatment Courts*, <https://justiceforvets.org/wp-content/uploads/2017/02/The-Ten-Key-Components-of-Veterans-Treatment-Courts.pdf> (last visited Jan. 21, 2018).

<sup>5</sup> See n. 3, *supra*.

<sup>6</sup> *Id.*

<sup>7</sup> CS/CS/SB 922 (ch. 2012-159, Laws of Fla.).

<sup>8</sup> Section 394.47891, F.S.

<sup>9</sup> Florida Courts, *Veterans' Courts*, <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/veterans-court.stml> (last visited Jan. 21, 2018).

establish a veterans' court program to serve the special needs of eligible veterans<sup>10</sup> and active duty servicemembers<sup>11</sup> who are:

- Suffering a military-related condition, such as mental illness, traumatic brain injury, or substance abuse; and
- Charged with or convicted of a criminal offense.<sup>12</sup>

The Act also added provisions to chapter 948, F.S., providing when veterans and servicemembers may be eligible to participate in the veterans' court program for treatment and services. Eligible individuals may participate after being:

- Charged with a criminal misdemeanor<sup>13</sup> or certain felony offenses but before being convicted (pretrial intervention);<sup>14</sup> or
- Convicted and sentenced, as a condition of probation or community control.<sup>15</sup>

### ***Pretrial Intervention Participation***

Prior to placement in a program, a veterans' treatment intervention team must develop an individualized coordinated strategy for the veteran. The team must present the coordinated strategy to the veteran in writing before he or she agrees to enter the program. The strategy is modeled after the ten therapeutic jurisprudence principles and key components for treatment-based drug court programs.<sup>16</sup>

During the time that the defendant is allotted participation in the treatment program, the court retains jurisdiction in the case. At the end of the program, the court considers recommendations for disposition by the state attorney and the program administrator. If the veteran successfully completes the treatment program, the court must dismiss the criminal charges. If the court finds that the veteran did not successfully complete the program, the court can either order the veteran to continue in education and treatment or authorize the state attorney to proceed with prosecution.<sup>17</sup>

Eligible veterans who successfully complete the diversion program may petition the court to order the expunction of the arrest record and the plea.<sup>18</sup>

<sup>10</sup> Section 1.01(14), F.S., defines a veteran as a person who served in active military, naval, or air service who was discharged or released under honorable conditions or who later received an upgraded discharge under honorable conditions.

<sup>11</sup> A servicemember is defined as a person serving as a member of the United States Armed Forces on active duty or state active duty and members of the Florida National Guard and United States Reserve Forces. Section 250.01(19), F.S.

<sup>12</sup> See n. 2, *supra*.

<sup>13</sup> Section 948.16(2)(a), F.S., establishes the misdemeanor pretrial veterans' treatment intervention program.

<sup>14</sup> Section 948.08(7)(a), F.S., authorizes courts to consider veterans charged with non-disqualifying felonies for pretrial veterans' treatment intervention programs. Section 948.08(7), F.S., references the disqualifying felony offenses listed in s. 948.06(8)(c), F.S. Section 948.06(8)(c), F.S., lists 19 disqualifying felony offenses of a serious nature, such as kidnapping, murder, sexual battery, treason, etc.

<sup>15</sup> Section 948.21, F.S.

<sup>16</sup> Section 948.08(7)(b), F.S., requires a coordinated strategy for veterans charged with felonies who are participating in pretrial intervention programs. Section 948.16(2)(b), F.S., requires a coordinated strategy for veterans charged with misdemeanors. Section 397.334(4), F.S., requires treatment based court programs to include therapeutic jurisprudence principles and components recognized by the United States Department of Justice and adopted by the Florida Supreme Court Treatment-based Drug Court Steering Committee.

<sup>17</sup> Section 948.08(7)(b)-(c), F.S.

<sup>18</sup> See n. 14, *supra*.

### ***Participation in Treatment Program while on Probation or Community Control***

Veterans and servicemembers on probation or community control who committed a crime on or after July 1, 2012, and suffer from a military-related mental illness, a traumatic brain injury, or a substance abuse disorder may also qualify for treatment programs. A court may impose, as a condition of probation or community control, successful completion of a mental health or substance abuse treatment program.<sup>19</sup>

### ***Current Court Statistics***

According to the State Court Administrator's Office of Court Improvement, as of April 2017, there were 30 veterans' courts in Florida.<sup>20</sup> Additionally, the Office of Court Improvement reports that in 2016, "Florida's veterans' courts admitted 1,090 participants and graduated 640."<sup>21</sup>

### **Expansion of Participant Eligibility in Florida's Veterans' Courts**

Under current law, to be eligible to participate in the veterans' court program, the defendant must allege that he or she is suffering a military-related injury and establish that he or she is:

- An honorably discharged veteran;<sup>22</sup>
- A generally discharged veteran;<sup>23</sup> or
- An active duty servicemember.<sup>24</sup>

By the recommendation of the Task Force on Substance Abuse and Mental Health Issues in the Courts,<sup>25</sup> Florida's court system has proposed that eligibility to participate in the veterans' courts be expanded to all veterans of any discharge status and to military-related individuals in the following two categories:

- Current or former United States defense contractors; and
- Current or former military members of a foreign allied country.<sup>26</sup>

The proposed expansion to include contractors and military members of foreign allied countries is in response to nationwide reports "that a large number of service personnel are being excluded from veterans courts because they do not meet the definition of 'veteran' or 'servicemember'" who have "served our country and would respond well to veterans court interventions."<sup>27</sup>

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<sup>19</sup> Section 948.21, F.S.

<sup>20</sup> See n. 3, *supra*.

<sup>21</sup> *Id.*

<sup>22</sup> See n. 10, *supra*.

<sup>23</sup> CS/CS/CS/HB 439 (chapter 2016-127, Laws of Fla.) (expanding eligibility for veterans to include not only those who were honorably discharged but also to those generally discharged).

<sup>24</sup> See n. 11, *supra*.

<sup>25</sup> The "Task Force on Substance Abuse and Mental Health Issues in the Courts" is the task forced "charged with developing a strategy for ensuring fidelity to nationally accepted key components of veterans courts" pursuant to Florida Supreme Court Administrative Order 14-46. See Judicial Branch 2018 Legislative Agenda, *Expansion of Veterans Court Eligibility*, p. 41 (on file with Senate Judiciary Committee).

<sup>26</sup> *Id.* at 42.

<sup>27</sup> *Id.* at 41.

### III. Effect of Proposed Changes:

**Section 1** amends s. 394.47891, F.S., to expand the eligibility criteria for who may participate in the Military Veterans' and Servicemembers' Court Program.

This section eliminates the requirement that a veteran be honorably or generally discharged, providing instead that any veteran discharged or released under any condition is eligible to participate.

The section also expands eligibility beyond veterans and active duty servicemembers to include individuals who are:

- Current or former United States defense contractors; and
- Current or former military members of a foreign allied country.

**Section 2** amends s. 948.08, F.S., to make a conforming change to clarify that pretrial intervention programs extend to any person charged with a felony (except the more serious felony offenses listed in s. 948.06(8)(c), F.S.), who is a veteran discharged for any reason, an active duty servicemember, a current or former United States defense contractor, or a current or former military member of a foreign allied country.

**Section 3** amends s. 948.16, F.S., to make a conforming change to clarify that misdemeanor pretrial intervention programs extend to any person charged with a misdemeanor who is a veteran discharged for any reason, an active duty servicemember, a current or former United States defense contractor, or a current or former military member of a foreign allied country.

**Section 4** amends s. 948.21, F.S., to make a conforming change to clarify that a court may impose a condition of probation or community control requiring participation in a treatment program to any person who is a veteran discharged for any reason, an active duty servicemember, a current or former United States defense contractor, or a current or former military member of a foreign allied country.

**Section 5** provides the bill takes effect on October 1, 2019.

### 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:**

None.

**C. Government Sector Impact:**

The bill's expansion of eligible veterans and other military-related individuals (contractors and allied country military members) for purposes of veterans' courts will increase the number of people eligible to participate in veterans' court programs, which will likely increase the costs associated with these programs. However, such costs will be limited by the amount of state funds appropriated to such programs. Additionally, such costs may be offset to the extent that the need for prison beds is reduced by placement in veterans' court programs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 394.47891, 948.08, 948.16, and 948.21.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.