

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

|                       |               |       |
|-----------------------|---------------|-------|
| ADOPTED               | <u>    </u>   | (Y/N) |
| ADOPTED AS AMENDED    | <u>    </u>   | (Y/N) |
| ADOPTED W/O OBJECTION | <u>    </u>   | (Y/N) |
| FAILED TO ADOPT       | <u>    </u>   | (Y/N) |
| WITHDRAWN             | <u>    </u>   | (Y/N) |
| OTHER                 | <u>      </u> |       |

---

1 Committee/Subcommittee hearing bill: Criminal Justice  
2 Subcommittee

3 Representative Ponder offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 394.47891, Florida Statutes, is amended  
8 to read:

9 394.47891 Military veterans and servicemembers court  
10 programs.—

11 (1) LEGISLATIVE INTENT.—It is the intent of the  
12 Legislature to encourage and support the judicial circuits of  
13 the state, and other such agencies, local governments,  
14 interested public or private entities, and individuals to create  
15 and maintain veterans treatment courts in each circuit. The  
16 purpose of a veterans treatment court program is to address the

Amendment No.

17 underlying causes of a veteran's involvement with the judicial  
18 system through the use of specialized dockets, multidisciplinary  
19 teams, and evidence-based treatment. A veterans treatment court  
20 program shall use nonadversarial approaches to resolve such  
21 issues. Veterans treatment courts depend on the leadership of  
22 judges or magistrates who are educated in the issues and science  
23 of veterans' behaviors leading to court involvement and require  
24 a rigorous team effort to detect, discern, and assist veterans  
25 in correcting the behaviors and choices that led to the  
26 veterans' court involvement. This act creates a detailed  
27 statewide standard for the creation, operation, and procedures  
28 for veterans treatment courts.

29 (2) DEFINITIONS.—For purposes of this section, the term:

30 (a) "Defendant" means a veteran or servicemember who has  
31 been charged with or convicted of a criminal offense.

32 (b) "Domestic violence" has the same meaning as in s.  
33 741.28(2).

34 (c) "Participant agreement" means the agreement as set  
35 forth in subsection (9) and any specific terms and conditions  
36 applicable to the defendant. The term includes any modifications  
37 made to the agreement under subsection (11).

38 (d) "Record" means any information that is inscribed in a  
39 tangible or electronic format and is retrievable in viewable  
40 form. The term does not include:

Amendment No.

41 1. A statement made or record submitted by a defendant in  
42 a veterans treatment court that is subject to 42 U.S.C. s.  
43 290dd-2, as amended, and 42 C.F.R. part 2, as amended, regarding  
44 confidentiality.

45 2. Any individually identifiable health information or  
46 record pertaining to a defendant in a veterans treatment court  
47 receiving substance abuse services that is subject to the  
48 privacy regulations adopted under the Health Insurance  
49 Portability and Accountability Act, 42 U.S.C. s. 1320d-6, as  
50 amended, and 45 C.F.R. parts 160, 162, and 164, as amended, and  
51 applicable state law.

52 (e) "Servicemember" means:

53 1. A member of the active or reserve components of the  
54 United States Army, Navy, Air Force, Marine Corps, or Coast  
55 Guard;

56 2. A member of the Florida National Guard;

57 3. A current or former contractor for the United States  
58 Department of Defense; or

59 4. A current or former military member of a foreign allied  
60 country.

61 (f) "Veteran" means a person who has served in the  
62 military.

63 (g) "Veterans treatment court" means a specialized docket  
64 administered by a court for veterans and servicemembers as set  
65 forth in this section.

Amendment No.

66 (3) AUTHORIZATION.—

67 (a) A court with jurisdiction over criminal cases may  
68 create and administer a veterans treatment court.

69 (b) A veterans treatment court may adjudicate misdemeanors  
70 and felonies.

71 (c) The chief judge of the circuit that creates and  
72 administers a veterans treatment court may issue administrative  
73 orders concerning the veterans treatment court.

74 (d) The chief judge and state attorney of the circuit that  
75 administers a veterans treatment court have the exclusive  
76 authority to determine whether a veteran who has been  
77 dishonorably discharged may participate in the veterans  
78 treatment court within the circuit.

79 (4) ADMISSION.—A defendant who meets the eligibility  
80 requirements under subsection (8) may be admitted to a veterans  
81 treatment court at any stage of a criminal proceeding. A  
82 defendant seeking to participate in a veterans treatment court  
83 must submit an application to the state attorney. The state  
84 attorney and court must review each application and determine  
85 whether the defendant meets the eligibility requirements in  
86 subsection (8).

87 (5) RECORD OF POLICIES AND PROCEDURES.—

88 (a) Each veterans treatment court shall seek input from  
89 the state attorney and other interested persons in developing

Amendment No.

90 and adopting policies and procedures to implement subsections  
91 (6) and (7).

92 (b) A veterans treatment court shall create a record of  
93 the policies and procedures adopted to implement subsections (6)  
94 and (7).

95 (6) KEY COMPONENTS OF A VETERANS TREATMENT COURT.—

96 (a) A veterans treatment court shall adopt policies and  
97 procedures to implement the following key components, including:

98 1. Integrating substance abuse and mental health treatment  
99 services, and any other related treatment and rehabilitation  
100 services with justice system case processing;

101 2. Using a nonadversarial approach in which the state  
102 attorney and defense counsel promote public safety while  
103 protecting the due process rights of the defendant;

104 3. Providing early identification of eligible defendants;

105 4. Monitoring defendants for abstinence from alcohol and  
106 drugs by frequent testing;

107 5. Providing ongoing judicial interaction with each  
108 defendant;

109 6. Monitoring and evaluating the achievement of each  
110 defendant's program goals; and

111 7. Forging partnerships among the veterans treatment  
112 courts, the United States Department of Veterans Affairs, the  
113 Florida Department of Veterans' Affairs, public agencies, and

Amendment No.

114 community-based organizations to generate local support and  
115 enhance the effectiveness of the veterans treatment court.

116 (b) In adopting policies and procedures under this  
117 section, the court shall consult nationally recognized best  
118 practices related to the key components of veterans treatment  
119 courts.

120 (7) SUPPLEMENTAL POLICIES AND PROCEDURES OF VETERANS  
121 TREATMENT COURTS.—A veterans treatment court may adopt  
122 supplemental policies and procedures to:

123 (a) Refer a defendant with a medical need to an  
124 appropriate health care provider or refer a defendant for  
125 appropriate assistance, including assistance with housing,  
126 employment, nutrition, mentoring, and education.

127 (b) Address domestic violence offenses by:

128 1. Referring a defendant who has been a victim of domestic  
129 violence, sexual trauma, child abuse, or other trauma to  
130 appropriate rehabilitative services;

131 2. Conferring with the victim or alleged victim of a  
132 domestic violence offense that serves as the basis for the  
133 defendant's participation in the veterans treatment court;

134 3. Evaluating and assessing a defendant charged with or  
135 convicted of a domestic violence offense and integrating  
136 specific counseling as part of the total rehabilitative services  
137 for the defendant;

Amendment No.

138 4. Monitoring a defendant charged with or convicted of a  
139 domestic violence offense to ensure compliance with a domestic  
140 violence protection order, no contact order, or prohibition on  
141 possessing a weapon or firearm.

142 (c) Otherwise encourage participation in the veterans  
143 treatment court.

144 (8) ELIGIBILITY.—

145 (a) A defendant may participate in a veterans treatment  
146 court if:

147 1. The defendant has a mental health condition, traumatic  
148 brain injury, substance use disorder, or psychological problem;

149 2. The defendant voluntarily agrees to the terms of the  
150 participation agreement by signing the agreement; and

151 3. The defendant's participation in the veterans treatment  
152 court is in the interests of justice, the defendant, and the  
153 community, as determined by:

154 a. The state attorney, if the defendant is at the pretrial  
155 diversion stage; or

156 b. The court, if the defendant is at any other stage in  
157 the proceeding.

158 (b) In making the determination under subparagraph (a)3.,  
159 the state attorney or court shall consider:

160 1. The nature and circumstances of the offense charged;

Amendment No.

161 2. The special characteristics or circumstances of the  
162 defendant and any victim or alleged victim, including any  
163 recommendation of the victim or alleged victim;

164 3. The defendant's criminal history and whether the  
165 defendant previously participated in a veterans treatment court  
166 or similar program;

167 4. Whether the defendant's needs exceed the treatment  
168 resources available to the veterans treatment court;

169 5. The impact on the community of the defendant's  
170 participation and treatment in the veterans treatment court;

171 6. Recommendations of any law enforcement agency involved  
172 in investigating or arresting the defendant;

173 7. If the defendant owes restitution, the likelihood of  
174 payment during the defendant's participation in the veterans  
175 treatment court;

176 8. Any mitigating circumstances; and

177 9. Any other circumstances reasonably related to the  
178 defendant's case.

179 (9) PARTICIPANT AGREEMENT.—To participate in a veterans  
180 treatment court, the defendant must sign, and the court must  
181 approve, a participant agreement. If admission to the veterans  
182 treatment court occurs before adjudication, the state attorney  
183 must sign the participant agreement.

184 (10) VICTIM OF DOMESTIC VIOLENCE.—



Amendment No.

185 (a) If a victim or alleged victim of a domestic violence  
186 offense that serves as the basis for the defendant's  
187 participation in a veterans treatment court can reasonably be  
188 located, the victim or alleged victim must be offered:

189 1. Referral to domestic violence service providers; and

190 2. Information on how to report an allegation of:

191 a. An offense committed by the defendant; or

192 b. The defendant's violation of the participant agreement.

193 (b) The defendant's participation in a veterans treatment  
194 court does not alter the rights of a victim or alleged victim of  
195 domestic violence under any other provision of law.

196 (11) MODIFICATION OR TERMINATION.—If a veterans treatment  
197 court determines after a hearing that a defendant has not  
198 complied with the participant agreement, the court may modify or  
199 revoke the defendant's participation in the program.

200 (12) COMPLETION OF THE PARTICIPANT AGREEMENT.—If a  
201 veterans treatment court determines that a defendant has  
202 completed the requirements of the participant agreement, the  
203 court shall dispose of the charge or charges that served as the  
204 basis of participation in the veterans treatment court in  
205 accordance with the participant agreement and any applicable  
206 plea agreement, court order, or judgment.

207 (13) LIBERAL CONSTRUCTION.—The provisions of this section  
208 shall be liberally construed.

Amendment No.

209        (14) NO RIGHT TO PARTICIPATE.—This section does not create  
210 a right of a veteran or servicemember to participate in a  
211 veterans treatment court.

212  
213 ~~The chief judge of each judicial circuit may establish a~~  
214 ~~Military Veterans and Servicemembers Court Program under which~~  
215 ~~veterans, as defined in s. 1.01; veterans who were discharged or~~  
216 ~~released under any condition; servicemembers, as defined in s.~~  
217 ~~250.01; individuals who are current or former United States~~  
218 ~~Department of Defense contractors; and individuals who are~~  
219 ~~current or former military members of a foreign allied country,~~  
220 ~~who are charged or convicted of a criminal offense, and who~~  
221 ~~suffer from a military-related mental illness, traumatic brain~~  
222 ~~injury, substance abuse disorder, or psychological problem can~~  
223 ~~be sentenced in accordance with chapter 921 in a manner that~~  
224 ~~appropriately addresses the severity of the mental illness,~~  
225 ~~traumatic brain injury, substance abuse disorder, or~~  
226 ~~psychological problem through services tailored to the~~  
227 ~~individual needs of the participant. Entry into any Military~~  
228 ~~Veterans and Servicemembers Court Program must be based upon the~~  
229 ~~sentencing court's assessment of the defendant's criminal~~  
230 ~~history, military service, substance abuse treatment needs,~~  
231 ~~mental health treatment needs, amenability to the services of~~  
232 ~~the program, the recommendation of the state attorney and the~~

115791 - h1085-strikeall.docx

Published On: 1/27/2020 7:01:03 PM

Amendment No.

233 ~~victim, if any, and the defendant's agreement to enter the~~  
234 ~~program.~~

235 Section 2. A Military Veterans and Servicemembers Court  
236 Program in operation under this section as of June 30, 2020, may  
237 continue to operate but must comply with the provisions of this  
238 section. Nothing in this section shall affect or alter the  
239 rights or responsibilities of any person who, as of June 30,  
240 2020, was admitted to and participating in a Military Veterans  
241 and Servicemembers Court Program under this section.

242 Section 3. This act shall take effect July 1, 2020.

244 -----  
245 **T I T L E A M E N D M E N T**

246 Remove everything before the enacting clause and insert:  
247 An act relating to veterans treatment courts; amending s.  
248 394.47891, F.S.; providing legislative intent; providing  
249 definitions; authorizing certain courts to create and administer  
250 veterans treatment courts; providing eligibility criteria for  
251 participation in the veterans treatment court program;  
252 specifying program implementation procedures, components, and  
253 policies; requiring participant agreements and specifying  
254 requirements for such agreements; exempting certain statements  
255 and information from recordkeeping requirements; providing for  
256 liberal construction; specifying that the act does not create a  
257 right to participate; providing for applicability to

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1085 (2020)

Amendment No.

258 | participants in certain court programs in existence as of June  
259 | 30, 2020; providing an effective date.