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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2020	.	
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Appropriations Subcommittee on Criminal and Civil Justice (Lee)
recommended the following:

Senate Amendment

Delete lines 53 - 328
and insert:

(a) "Defendant" means a veteran, a servicemember, a current
or former contractor for the United States Department of
Defense, or a current or former military member of a foreign
allied country, who has been charged with or convicted of a
criminal offense.

(b) "Participant agreement" means the agreement as set



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11 forth in subsection (9) and any specific terms and conditions
12 applicable to the defendant. The term includes any modifications
13 made to the agreement under subsection (10).

14 (c) "Servicemember" means a servicemember as defined in s.
15 250.01.

16 (d) "Veteran" means a veteran as defined in s. 1.01(14),
17 regardless of the discharge or release condition of the veteran.

18 (e) "Veterans treatment court" means a specialized docket
19 administered by a court for veterans and servicemembers as set
20 forth in this section.

21 (3) AUTHORIZATION.—The chief judge of each judicial circuit
22 may establish a veterans treatment court.

23 (4) ADMISSION.—A defendant who meets the eligibility
24 requirements under subsection (8) may be admitted to a veterans
25 treatment court at any stage of a criminal proceeding.

26 (5) RECORD OF POLICIES AND PROCEDURES.—A veterans treatment
27 court shall create a record of the policies and procedures
28 adopted to implement subsections (6) and (7).

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

30 (a) A veterans treatment court shall adopt policies and
31 procedures to implement the following key components, including,
32 but not limited to:

33 1. Integrating substance abuse and mental health treatment
34 services and any other related treatment and rehabilitation
35 services with justice system case processing;

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

39 3. Providing early identification of eligible defendants;



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40 4. Monitoring defendants for abstinence from alcohol and
41 drugs by frequent testing;

42 5. Providing ongoing judicial interaction with each
43 defendant;

44 6. Monitoring and evaluating the achievement of each
45 defendant's program goals; and

46 7. Forging partnerships among the veterans treatment
47 courts, the United States Department of Veterans Affairs, the
48 Florida Department of Veterans' Affairs, public agencies, and
49 community-based organizations to generate local support and
50 enhance the effectiveness of the veterans treatment court.

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

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

57 (a) Refer a defendant with a medical need to an appropriate
58 health care provider or refer a defendant for other appropriate
59 assistance, including assistance with housing, employment,
60 nutrition, mentoring, and education.

61 (b) Otherwise encourage participation in the veterans
62 treatment court.

63 (8) ELIGIBILITY.—

64 (a) A defendant may participate in a veterans treatment
65 court if:

66 1. The defendant has a military-related mental health
67 condition, traumatic brain injury, substance use disorder, or
68 psychological problem;



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

71 3. The defendant's participation in the veterans treatment
72 court is in the interests of justice, the defendant, and the
73 community, as determined by the court.

74 (b) In making the determination under subparagraph (a)3.,
75 the court must consider:

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

77 2. The recommendation of the state attorney;

78 3. The special characteristics or circumstances of the
79 defendant and any victim or alleged victim, including any
80 recommendation of the victim or alleged victim;

81 4. The defendant's criminal history and whether the
82 defendant previously participated in a veterans treatment court
83 or similar program;

84 5. Whether the defendant's needs exceed the treatment
85 resources available through the veterans treatment court;

86 6. The impact on the community of the defendant's
87 participation and treatment in the veterans treatment court;

88 7. Recommendations of any law enforcement agency involved
89 in investigating or arresting the defendant;

90 8. If the defendant owes restitution, the likelihood of
91 payment during the defendant's participation in the veterans
92 treatment court;

93 9. Any mitigating circumstances; and

94 10. Any other circumstances reasonably related to the
95 defendant's case.

96 (9) PARTICIPANT AGREEMENT.—To participate in a veterans
97 treatment court, the defendant must sign, and the court must



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98 approve, a participant agreement.

99 (10) MODIFICATION OR TERMINATION.—If a veterans treatment
100 court determines after a hearing that a defendant has not
101 complied with the participant agreement, the court may modify or
102 revoke the defendant's participation in the program.

103 (11) COMPLETION OF THE PARTICIPANT AGREEMENT.—If a veterans
104 treatment court determines that a defendant has completed the
105 requirements of the participant agreement, the court shall
106 dispose of the charge or charges that served as the basis of
107 participation in the veterans treatment court in accordance with
108 the participant agreement and any applicable plea agreement,
109 court order, or judgment.

110 (12) LIBERAL CONSTRUCTION.—The provisions of this section
111 shall be liberally construed.

112 (13) NO RIGHT TO PARTICIPATE.—This section does not create
113 a right of a veteran or servicemember to participate in a
114 veterans treatment court ~~The chief judge of each judicial~~
115 ~~circuit may establish a Military Veterans and Servicemembers~~
116 ~~Court Program under which veterans, as defined in s. 1.01;~~
117 ~~veterans who were discharged or released under any condition;~~
118 ~~servicemembers, as defined in s. 250.01; individuals who are~~
119 ~~current or former United States Department of Defense~~
120 ~~contractors; and individuals who are current or former military~~
121 ~~members of a foreign allied country, who are charged or~~
122 ~~convicted of a criminal offense, and who suffer from a military-~~
123 ~~related mental illness, traumatic brain injury, substance abuse~~
124 ~~disorder, or psychological problem can be sentenced in~~
125 ~~accordance with chapter 921 in a manner that appropriately~~
126 ~~addresses the severity of the mental illness, traumatic brain~~



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127 ~~injury, substance abuse disorder, or psychological problem~~
128 ~~through services tailored to the individual needs of the~~
129 ~~participant. Entry into any Military Veterans and Servicemembers~~
130 ~~Court Program must be based upon the sentencing court's~~
131 ~~assessment of the defendant's criminal history, military~~
132 ~~service, substance abuse treatment needs, mental health~~
133 ~~treatment needs, amenability to the services of the program, the~~
134 ~~recommendation of the state attorney and the victim, if any, and~~
135 ~~the defendant's agreement to enter the program.~~

136 Section 2. Subsection (2) of section 43.51, Florida
137 Statutes, is amended to read:

138 43.51 Problem-solving court reports.-

139 (2) For purposes of this section, the term "problem-solving
140 court" includes, but is not limited to, a drug court pursuant to
141 s. 397.334, s. 948.01, s. 948.06, s. 948.08, s. 948.16, or s.
142 948.20; a veterans treatment ~~military veterans' and~~
143 ~~servicemembers'~~ court pursuant to s. 394.47891, s. 948.08, s.
144 948.16, or s. 948.21; a mental health court program pursuant to
145 s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16; a
146 community court pursuant to s. 948.081; or a delinquency
147 pretrial intervention court program pursuant to s. 985.345.

148 Section 3. Paragraph (a) of subsection (5) of section
149 910.035, Florida Statutes, is amended to read:

150 910.035 Transfer from county for plea, sentence, or
151 participation in a problem-solving court.-

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

153 (a) For purposes of this subsection, the term "problem-
154 solving court" means a drug court pursuant to s. 948.01, s.
155 948.06, s. 948.08, s. 948.16, or s. 948.20; a veterans treatment



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156 ~~military veterans' and servicemembers'~~ court pursuant to s.
157 394.47891, s. 948.08, s. 948.16, or s. 948.21; a mental health
158 court program pursuant to s. 394.47892, s. 948.01, s. 948.06, s.
159 948.08, or s. 948.16; or a delinquency pretrial intervention
160 court program pursuant to s. 985.345.

161 Section 4. Paragraph (k) of subsection (2) of section
162 948.06, Florida Statutes, is amended to read:

163 948.06 Violation of probation or community control;
164 revocation; modification; continuance; failure to pay
165 restitution or cost of supervision.—

166 (2)

167 (k)1. Notwithstanding s. 921.0024 and effective for
168 offenses committed on or after July 1, 2016, the court may order
169 the offender to successfully complete a postadjudicatory mental
170 health court program under s. 394.47892 or a veterans treatment
171 ~~military veterans and servicemembers~~ court program under s.
172 394.47891 if:

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

175 b. The underlying offense is a nonviolent felony. As used
176 in this subsection, the term "nonviolent felony" means a third
177 degree felony violation under chapter 810 or any other felony
178 offense that is not a forcible felony as defined in s. 776.08.
179 Offenders charged with resisting an officer with violence under
180 s. 843.01, battery on a law enforcement officer under s. 784.07,
181 or aggravated assault may participate in the mental health court
182 program if the court so orders after the victim is given his or
183 her right to provide testimony or written statement to the court
184 as provided in s. 921.143;



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185 c. The court determines that the offender is amenable to
186 the services of a postadjudicatory mental health court program,
187 including taking prescribed medications, or a veterans treatment
188 ~~military veterans and servicemembers~~ court program;

189 d. The court explains the purpose of the program to the
190 offender and the offender agrees to participate; and

191 e. The offender is otherwise qualified to participate in a
192 postadjudicatory mental health court program under s.
193 394.47892(4) or a veterans treatment ~~military veterans and~~
194 ~~servicemembers~~ court program under s. 394.47891.

195 2. After the court orders the modification of community
196 control or probation, the original sentencing court shall
197 relinquish jurisdiction of the offender's case to the
198 postadjudicatory mental health court program until the offender
199 is no longer active in the program, the case is returned to the
200 sentencing court due to the offender's termination from the
201 program for failure to comply with the terms thereof, or the
202 offender's sentence is completed.

203 Section 5. Paragraph (a) of subsection (7) of section
204 948.08, Florida Statutes, is amended to read:

205 948.08 Pretrial intervention program.—

206 (7) (a) Notwithstanding any provision of this section, a
207 person who is charged with a felony, other than a felony listed
208 in s. 948.06(8)(c), and who is identified as a veteran or a
209 servicemember, as defined in s. 394.47891, and is otherwise
210 qualified to participate in a veterans treatment court under s.
211 394.47891 s. 1.01; a veteran who is discharged or released under
212 any condition; a servicemember, as defined in s. 250.01; an
213 individual who is a current or former United States Department



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214 ~~of Defense contractor; or an individual who is a current or~~
215 ~~former military member of a foreign allied country, who suffers~~
216 ~~from a military service related mental illness, traumatic brain~~
217 ~~injury, substance abuse disorder, or psychological problem is~~
218 eligible for voluntary admission into a pretrial veterans'
219 treatment intervention program approved by the chief judge of
220 the circuit, upon motion of either party or the court's own
221 motion, except:

222 1. If a defendant was previously offered admission to a
223 pretrial veterans' treatment intervention program at any time
224 before trial and the defendant rejected that offer on the
225 record, the court may deny the defendant's admission to such a
226 program.

227 2. If a defendant previously entered a court-ordered
228 veterans' treatment program, the court may deny the defendant's
229 admission into the pretrial veterans' treatment program.

230 Section 6. Paragraph (a) of subsection (2) of section
231 948.16, Florida Statutes, is amended to read:

232 948.16 Misdemeanor pretrial substance abuse education and
233 treatment intervention program; misdemeanor pretrial veterans'
234 treatment intervention program; misdemeanor pretrial mental
235 health court program.—

236 (2) (a) A veteran or a servicemember, as defined in s.
237 394.47891, who is otherwise qualified to participate in a
238 veterans treatment court under that section s. 1.01; ~~a veteran~~
239 ~~who is discharged or released under any condition; a~~
240 ~~servicemember, as defined in s. 250.01; an individual who is a~~
241 ~~current or former United States Department of Defense~~
242 ~~contractor; or an individual who is a current or former military~~



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243 ~~member of a foreign allied country, who suffers from a military~~
244 ~~service-related mental illness, traumatic brain injury,~~
245 ~~substance abuse disorder, or psychological problem,~~ and who is
246 charged with a misdemeanor is eligible for voluntary admission
247 into a misdemeanor pretrial veterans' treatment intervention
248 program approved by the chief judge of the circuit, for a period
249 based on the program's requirements and the treatment plan for
250 the offender, upon motion of either party or the court's own
251 motion. However, the court may deny the defendant admission into
252 a misdemeanor pretrial veterans' treatment intervention program
253 if the defendant has previously entered a court-ordered
254 veterans' treatment program.

255 Section 7. Present subsection (4) of section 948.21,
256 Florida Statutes, is renumbered as subsection (5), and a new
257 subsection (4) is added to that section, to read:

258 948.21 Condition of probation or community control;
259 military servicemembers and veterans.-

260 (4) Effective for a probationer or community controllee
261 whose crime is committed on or after July 1, 2020, and is a
262 veteran or a servicemember, as defined in s. 394.47891, who is
263 otherwise qualified to participate in a veterans treatment court
264 under s. 394.47891, the court may, in addition to any other
265 conditions imposed, impose a condition requiring the probationer
266 or community controllee to participate in a treatment program
267 capable of treating the probationer or community controllee's
268 mental illness, traumatic brain injury, substance use disorder,
269 or psychological problem.

270 Section 8. A Military Veterans and Servicemembers Court
271 Program in operation under s. 394.47891, Florida Statutes, as of



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272 June 30, 2020, may continue to operate, but the provisions of
273 this act shall apply only prospectively to new cases on and
274 after the effective date of this act. This act does not