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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2020	.	
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The Committee on Military and Veterans Affairs and Space (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

394.47891 ~~Military Veterans treatment and servicemembers~~
court programs.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature
to encourage and support the judicial circuits of the state, and



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11 other such agencies, local governments, interested public or
12 private entities, and individuals, to create and maintain
13 veterans treatment courts in each circuit. The purpose of a
14 veterans treatment court program is to address the underlying
15 causes of a servicemember's or veteran's involvement with the
16 judicial system through the use of specialized dockets,
17 multidisciplinary teams, and evidence-based treatment. A
18 veterans treatment court program shall use nonadversarial
19 approaches to resolve such issues. Veterans treatment courts
20 depend on the leadership of judges or magistrates who are
21 educated in the issues and science of behaviors leading to court
22 involvement and require a rigorous team effort to detect,
23 discern, and assist servicemembers and veterans in correcting
24 the behaviors and choices that led to the veterans' court
25 involvement. This act creates a detailed statewide standard for
26 the creation and operation of, and procedures for, veterans
27 treatment courts.

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

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

31 (b) "Participant agreement" means the agreement as set
32 forth in subsection (9) and any specific terms and conditions
33 applicable to the defendant. The term includes any modifications
34 made to the agreement under subsection (10).

35 (c) "Servicemember" means:

36 1. A member of the active or reserve components of the
37 United States Army, Navy, Air Force, Marine Corps, or Coast
38 Guard;

39 2. A member of the Florida National Guard;



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40 3. A current or former contractor for the United States
41 Department of Defense; or

42 4. A current or former military member of a foreign allied
43 country.

44 (d) "Veteran" means a person who has served in the
45 military.

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

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

51 (4) ADMISSION.—A defendant who meets the eligibility
52 requirements under subsection (8) may be admitted to a veterans
53 treatment court at any stage of a criminal proceeding. A
54 defendant seeking to participate in a veterans treatment court
55 must submit an application to the court. The court must review
56 each application and determine whether the defendant meets the
57 eligibility requirements in subsection (8).

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

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

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

64 1. Integrating substance abuse and mental health treatment
65 services and any other related treatment and rehabilitation
66 services with justice system case processing;

67 2. Using a nonadversarial approach in which the state
68 attorney and defense counsel promote public safety while



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69 protecting the due process rights of the defendant;
70 3. Providing early identification of eligible defendants;
71 4. Monitoring defendants for abstinence from alcohol and
72 drugs by frequent testing;
73 5. Providing ongoing judicial interaction with each
74 defendant;
75 6. Monitoring and evaluating the achievement of each
76 defendant's program goals; and
77 7. Forging partnerships among the veterans treatment
78 courts, the United States Department of Veterans Affairs, the
79 Florida Department of Veterans' Affairs, public agencies, and
80 community-based organizations to generate local support and
81 enhance the effectiveness of the veterans treatment court.
82 (b) In adopting policies and procedures under this section,
83 the court shall consult nationally recognized best practices
84 related to the key components of veterans treatment courts.
85 (7) SUPPLEMENTAL POLICIES AND PROCEDURES OF VETERANS
86 TREATMENT COURTS.—A veterans treatment court may adopt
87 supplemental policies and procedures to:
88 (a) Refer a defendant with a medical need to an appropriate
89 health care provider or refer a defendant for other appropriate
90 assistance, including assistance with housing, employment,
91 nutrition, mentoring, and education.
92 (b) Otherwise encourage participation in the veterans
93 treatment court.
94 (8) ELIGIBILITY.—
95 (a) A defendant may participate in a veterans treatment
96 court if:
97 1. The defendant has a military-related mental health



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98 condition, traumatic brain injury, substance use disorder, or
99 psychological problem;

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

102 3. The defendant's participation in the veterans treatment
103 court is in the interests of justice, the defendant, and the
104 community, as determined by the court.

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

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

108 2. The recommendation of the state attorney;

109 3. The special characteristics or circumstances of the
110 defendant and any victim or alleged victim, including any
111 recommendation of the victim or alleged victim;

112 4. The defendant's criminal history and whether the
113 defendant previously participated in a veterans treatment court
114 or similar program;

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

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

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

121 8. If the defendant owes restitution, the likelihood of
122 payment during the defendant's participation in the veterans
123 treatment court;

124 9. Any mitigating circumstances; and

125 10. Any other circumstances reasonably related to the
126 defendant's case.



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127 (9) PARTICIPANT AGREEMENT.—To participate in a veterans
128 treatment court, the defendant must sign, and the court must
129 approve, a participant agreement.

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

134 (11) COMPLETION OF THE PARTICIPANT AGREEMENT.—If a veterans
135 treatment court determines that a defendant has completed the
136 requirements of the participant agreement, the court shall
137 dispose of the charge or charges that served as the basis of
138 participation in the veterans treatment court in accordance with
139 the participant agreement and any applicable plea agreement,
140 court order, or judgment.

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

143 (13) NO RIGHT TO PARTICIPATE.—This section does not create
144 a right of a veteran or servicemember to participate in a
145 veterans treatment court ~~The chief judge of each judicial~~
146 ~~circuit may establish a Military Veterans and Servicemembers~~
147 ~~Court Program under which veterans, as defined in s. 1.01;~~
148 ~~veterans who were discharged or released under any condition;~~
149 ~~servicemembers, as defined in s. 250.01; individuals who are~~
150 ~~current or former United States Department of Defense~~
151 ~~contractors; and individuals who are current or former military~~
152 ~~members of a foreign allied country, who are charged or~~
153 ~~convicted of a criminal offense, and who suffer from a military-~~
154 ~~related mental illness, traumatic brain injury, substance abuse~~
155 ~~disorder, or psychological problem can be sentenced in~~



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156 ~~accordance with chapter 921 in a manner that appropriately~~
157 ~~addresses the severity of the mental illness, traumatic brain~~
158 ~~injury, substance abuse disorder, or psychological problem~~
159 ~~through services tailored to the individual needs of the~~
160 ~~participant. Entry into any Military Veterans and Servicemembers~~
161 ~~Court Program must be based upon the sentencing court's~~
162 ~~assessment of the defendant's criminal history, military~~
163 ~~service, substance abuse treatment needs, mental health~~
164 ~~treatment needs, amenability to the services of the program, the~~
165 ~~recommendation of the state attorney and the victim, if any, and~~
166 ~~the defendant's agreement to enter the program.~~

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

169 43.51 Problem-solving court reports.—

170 (2) For purposes of this section, the term "problem-solving
171 court" includes, but is not limited to, a drug court pursuant to
172 s. 397.334, s. 948.01, s. 948.06, s. 948.08, s. 948.16, or s.
173 948.20; a veterans treatment ~~military veterans' and~~
174 ~~servicemembers'~~ court pursuant to s. 394.47891, s. 948.08, s.
175 948.16, or s. 948.21; a mental health court program pursuant to
176 s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16; a
177 community court pursuant to s. 948.081; or a delinquency
178 pretrial intervention court program pursuant to s. 985.345.

179 Section 3. Paragraph (a) of subsection (5) of section
180 910.035, Florida Statutes, is amended to read:

181 910.035 Transfer from county for plea, sentence, or
182 participation in a problem-solving court.—

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

184 (a) For purposes of this subsection, the term "problem-



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185 solving court" means a drug court pursuant to s. 948.01, s.
186 948.06, s. 948.08, s. 948.16, or s. 948.20; a veterans treatment
187 ~~military veterans' and servicemembers'~~ court pursuant to s.
188 394.47891, s. 948.08, s. 948.16, or s. 948.21; a mental health
189 court program pursuant to s. 394.47892, s. 948.01, s. 948.06, s.
190 948.08, or s. 948.16; or a delinquency pretrial intervention
191 court program pursuant to s. 985.345.

192 Section 4. Paragraph (k) of subsection (2) of section
193 948.06, Florida Statutes, is amended to read:

194 948.06 Violation of probation or community control;
195 revocation; modification; continuance; failure to pay
196 restitution or cost of supervision.—

197 (2)

198 (k)1. Notwithstanding s. 921.0024 and effective for
199 offenses committed on or after July 1, 2016, the court may order
200 the offender to successfully complete a postadjudicatory mental
201 health court program under s. 394.47892 or a veterans treatment
202 ~~military veterans and servicemembers~~ court program under s.
203 394.47891 if:

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

206 b. The underlying offense is a nonviolent felony. As used
207 in this subsection, the term "nonviolent felony" means a third
208 degree felony violation under chapter 810 or any other felony
209 offense that is not a forcible felony as defined in s. 776.08.
210 Offenders charged with resisting an officer with violence under
211 s. 843.01, battery on a law enforcement officer under s. 784.07,
212 or aggravated assault may participate in the mental health court
213 program if the court so orders after the victim is given his or



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214 her right to provide testimony or written statement to the court
215 as provided in s. 921.143;

216 c. The court determines that the offender is amenable to
217 the services of a postadjudicatory mental health court program,
218 including taking prescribed medications, or a veterans treatment
219 ~~military veterans and servicemembers~~ court program;

220 d. The court explains the purpose of the program to the
221 offender and the offender agrees to participate; and

222 e. The offender is otherwise qualified to participate in a
223 postadjudicatory mental health court program under s.
224 394.47892(4) or a veterans treatment ~~military veterans and~~
225 ~~servicemembers~~ court program under s. 394.47891.

226 2. After the court orders the modification of community
227 control or probation, the original sentencing court shall
228 relinquish jurisdiction of the offender's case to the
229 postadjudicatory mental health court program until the offender
230 is no longer active in the program, the case is returned to the
231 sentencing court due to the offender's termination from the
232 program for failure to comply with the terms thereof, or the
233 offender's sentence is completed.

234 Section 5. Paragraph (a) of subsection (7) of section
235 948.08, Florida Statutes, is amended to read:

236 948.08 Pretrial intervention program.—

237 (7) (a) Notwithstanding any provision of this section, a
238 person who is charged with a felony, other than a felony listed
239 in s. 948.06(8)(c), and who is identified as a veteran or a
240 servicemember, as defined in s. 394.47891, and is otherwise
241 qualified to participate in a veterans treatment court under s.
242 394.47891 s. 1.01; a veteran who is discharged or released under



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243 ~~any condition; a servicemember, as defined in s. 250.01; an~~
244 ~~individual who is a current or former United States Department~~
245 ~~of Defense contractor; or an individual who is a current or~~
246 ~~former military member of a foreign allied country, who suffers~~
247 ~~from a military service-related mental illness, traumatic brain~~
248 ~~injury, substance abuse disorder, or psychological problem is~~
249 eligible for voluntary admission into a pretrial veterans'
250 treatment intervention program approved by the chief judge of
251 the circuit, upon motion of either party or the court's own
252 motion, except:

253 1. If a defendant was previously offered admission to a
254 pretrial veterans' treatment intervention program at any time
255 before trial and the defendant rejected that offer on the
256 record, the court may deny the defendant's admission to such a
257 program.

258 2. If a defendant previously entered a court-ordered
259 veterans' treatment program, the court may deny the defendant's
260 admission into the pretrial veterans' treatment program.

261 Section 6. Paragraph (a) of subsection (2) of section
262 948.16, Florida Statutes, is amended to read:

263 948.16 Misdemeanor pretrial substance abuse education and
264 treatment intervention program; misdemeanor pretrial veterans'
265 treatment intervention program; misdemeanor pretrial mental
266 health court program.—

267 (2) (a) A veteran or a servicemember, as defined in s.
268 394.47891, who is otherwise qualified to participate in a
269 veterans treatment court under that section s. 1.01; a veteran
270 ~~who is discharged or released under any condition; a~~
271 ~~servicemember, as defined in s. 250.01; an individual who is a~~



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272 ~~current or former United States Department of Defense~~
273 ~~contractor; or an individual who is a current or former military~~
274 ~~member of a foreign allied country, who suffers from a military~~
275 ~~service-related mental illness, traumatic brain injury,~~
276 ~~substance abuse disorder, or psychological problem, and who is~~
277 charged with a misdemeanor is eligible for voluntary admission
278 into a misdemeanor pretrial veterans' treatment intervention
279 program approved by the chief judge of the circuit, for a period
280 based on the program's requirements and the treatment plan for
281 the offender, upon motion of either party or the court's own
282 motion. However, the court may deny the defendant admission into
283 a misdemeanor pretrial veterans' treatment intervention program
284 if the defendant has previously entered a court-ordered
285 veterans' treatment program.

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

289 948.21 Condition of probation or community control;
290 military servicemembers and veterans.-

291 (4) Effective for a probationer or community controllee
292 whose crime is committed on or after October 1, 2020, and is a
293 veteran or a servicemember as defined in s. 394.47891, who is
294 otherwise qualified to participate in a veterans treatment court
295 under s. 394.47891, the court may, in addition to any other
296 conditions imposed, impose a condition requiring the probationer
297 or community controllee to participate in a treatment program
298 capable of treating the probationer or community controllee's
299 mental illness, traumatic brain injury, substance abuse
300 disorder, or psychological problem.



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301 Section 8. A Military Veterans and Servicemembers Court
302 Program in operation under s. 394.47891, Florida Statutes, as of
303 June 30, 2020, may continue to operate but must comply with the
304 amendments made by this act to that section. This act does not
305 affect or alter the rights or responsibilities of any person
306 who, as of June 30, 2020, was admitted to and participating in a
307 Military Veterans and Servicemembers Court Program established
308 under s. 394.47891, Florida Statutes.

309 Section 9. This act shall take effect July 1, 2020.

310

311 ===== T I T L E A M E N D M E N T =====

312 And the title is amended as follows:

313 Delete everything before the enacting clause
314 and insert:

315 A bill to be entitled
316 An act relating to veterans treatment courts; amending
317 s. 394.47891, F.S.; providing legislative intent;
318 providing definitions; authorizing the establishment
319 of veterans treatment courts by the chief judge of a
320 judicial circuit; specifying standards for admission
321 into the program; specifying required components and
322 policies for the program; specifying eligibility
323 requirements for participation in the program;
324 providing factors that a court must consider in
325 determining a defendant's eligibility to participate;
326 requiring participant agreements and specifying
327 requirements for such agreements; providing for
328 construction; specifying that the act does not create
329 a right to participate in the program; amending ss.



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330 43.51, 910.035, 948.06, 948.08, and 948.16, F.S.;

331 conforming provisions to changes made by the act;

332 amending s. 948.21, F.S.; authorizing a court to

333 impose a condition requiring a probationer or

334 community controllee who is eligible to participate in

335 a veterans treatment court to participate in certain

336 treatment programs under certain circumstances;

337 specifying applicability of the act to participants in

338 certain court programs in existence as of a specified

339 date; providing an effective date.