

**By** the Committee on Military and Veterans Affairs and Space; and  
Senator Lee

583-03552-20

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1                                   A bill to be entitled  
2       An act relating to veterans treatment courts; amending  
3       s. 394.47891, F.S.; providing legislative intent;  
4       providing definitions; authorizing the establishment  
5       of veterans treatment courts by the chief judge of a  
6       judicial circuit; specifying standards for admission  
7       into the program; specifying required components and  
8       policies for the program; specifying eligibility  
9       requirements for participation in the program;  
10      providing factors that a court must consider in  
11      determining a defendant's eligibility to participate;  
12      requiring participant agreements and specifying  
13      requirements for such agreements; providing for  
14      construction; specifying that the act does not create  
15      a right to participate in the program; amending ss.  
16      43.51, 910.035, 948.06, 948.08, and 948.16, F.S.;  
17      conforming provisions to changes made by the act;  
18      amending s. 948.21, F.S.; authorizing a court to  
19      impose a condition requiring a probationer or  
20      community controllee who is eligible to participate in  
21      a veterans treatment court to participate in certain  
22      treatment programs under certain circumstances;  
23      specifying applicability of the act to participants in  
24      certain court programs in existence as of a specified  
25      date; providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

28  
29       Section 1. Section 394.47891, Florida Statutes, is amended

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30 to read:

31 394.47891 ~~Military Veterans~~ treatment ~~and servicemembers~~  
32 court programs.—

33 (1) LEGISLATIVE INTENT.—It is the intent of the Legislature  
34 to encourage and support the judicial circuits of the state, and  
35 other such agencies, local governments, interested public or  
36 private entities, and individuals, to create and maintain  
37 veterans treatment courts in each circuit. The purpose of a  
38 veterans treatment court program is to address the underlying  
39 causes of a servicemember's or veteran's involvement with the  
40 judicial system through the use of specialized dockets,  
41 multidisciplinary teams, and evidence-based treatment. A  
42 veterans treatment court program shall use nonadversarial  
43 approaches to resolve such issues. Veterans treatment courts  
44 depend on the leadership of judges or magistrates who are  
45 educated in the issues and science of behaviors leading to court  
46 involvement and require a rigorous team effort to detect,  
47 discern, and assist servicemembers and veterans in correcting  
48 the behaviors and choices that led to the veterans' court  
49 involvement. This section creates a detailed statewide standard  
50 for the creation and operation of, and procedures for, veterans  
51 treatment courts.

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

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

55 (b) "Participant agreement" means the agreement as set  
56 forth in subsection (9) and any specific terms and conditions  
57 applicable to the defendant. The term includes any modifications  
58 made to the agreement under subsection (10).

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59 (c) "Servicemember" means:

60 1. A member of the active or reserve components of the  
61 United States Army, Navy, Air Force, Marine Corps, or Coast  
62 Guard;

63 2. A member of the Florida National Guard;

64 3. A current or former contractor for the United States  
65 Department of Defense; or

66 4. A current or former military member of a foreign allied  
67 country.

68 (d) "Veteran" means a person who has served in the  
69 military.

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

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

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

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

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

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

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88 1. Integrating substance abuse and mental health treatment  
89 services and any other related treatment and rehabilitation  
90 services with justice system case processing;

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

94 3. Providing early identification of eligible defendants;

95 4. Monitoring defendants for abstinence from alcohol and  
96 drugs by frequent testing;

97 5. Providing ongoing judicial interaction with each  
98 defendant;

99 6. Monitoring and evaluating the achievement of each  
100 defendant's program goals; and

101 7. Forging partnerships among the veterans treatment  
102 courts, the United States Department of Veterans Affairs, the  
103 Florida Department of Veterans' Affairs, public agencies, and  
104 community-based organizations to generate local support and  
105 enhance the effectiveness of the veterans treatment court.

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

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

112 (a) Refer a defendant with a medical need to an appropriate  
113 health care provider or refer a defendant for other appropriate  
114 assistance, including assistance with housing, employment,  
115 nutrition, mentoring, and education.

116 (b) Otherwise encourage participation in the veterans

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117 treatment court.

118 (8) ELIGIBILITY.—

119 (a) A defendant may participate in a veterans treatment  
120 court if:

121 1. The defendant has a military-related mental health  
122 condition, traumatic brain injury, substance use disorder, or  
123 psychological problem;

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

126 3. The defendant's participation in the veterans treatment  
127 court is in the interests of justice, the defendant, and the  
128 community, as determined by the court.

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

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

132 2. The recommendation of the state attorney;

133 3. The special characteristics or circumstances of the  
134 defendant and any victim or alleged victim, including any  
135 recommendation of the victim or alleged victim;

136 4. The defendant's criminal history and whether the  
137 defendant previously participated in a veterans treatment court  
138 or similar program;

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

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

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

145 8. If the defendant owes restitution, the likelihood of

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146 payment during the defendant's participation in the veterans  
147 treatment court;

148 9. Any mitigating circumstances; and

149 10. Any other circumstances reasonably related to the  
150 defendant's case.

151 (9) PARTICIPANT AGREEMENT.—To participate in a veterans  
152 treatment court, the defendant must sign, and the court must  
153 approve, a participant agreement.

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

158 (11) COMPLETION OF THE PARTICIPANT AGREEMENT.—If a veterans  
159 treatment court determines that a defendant has completed the  
160 requirements of the participant agreement, the court shall  
161 dispose of the charge or charges that served as the basis of  
162 participation in the veterans treatment court in accordance with  
163 the participant agreement and any applicable plea agreement,  
164 court order, or judgment.

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

167 (13) NO RIGHT TO PARTICIPATE.—This section does not create  
168 a right of a veteran or servicemember to participate in a  
169 veterans treatment court ~~The chief judge of each judicial~~  
170 ~~circuit may establish a Military Veterans and Servicemembers~~  
171 ~~Court Program under which veterans, as defined in s. 1.01;~~  
172 ~~veterans who were discharged or released under any condition;~~  
173 ~~servicemembers, as defined in s. 250.01; individuals who are~~  
174 ~~current or former United States Department of Defense~~

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175 ~~contractors; and individuals who are current or former military~~  
176 ~~members of a foreign allied country, who are charged or~~  
177 ~~convicted of a criminal offense, and who suffer from a military-~~  
178 ~~related mental illness, traumatic brain injury, substance abuse~~  
179 ~~disorder, or psychological problem can be sentenced in~~  
180 ~~accordance with chapter 921 in a manner that appropriately~~  
181 ~~addresses the severity of the mental illness, traumatic brain~~  
182 ~~injury, substance abuse disorder, or psychological problem~~  
183 ~~through services tailored to the individual needs of the~~  
184 ~~participant. Entry into any Military Veterans and Servicemembers~~  
185 ~~Court Program must be based upon the sentencing court's~~  
186 ~~assessment of the defendant's criminal history, military~~  
187 ~~service, substance abuse treatment needs, mental health~~  
188 ~~treatment needs, amenability to the services of the program, the~~  
189 ~~recommendation of the state attorney and the victim, if any, and~~  
190 ~~the defendant's agreement to enter the program.~~

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

193 43.51 Problem-solving court reports.—

194 (2) For purposes of this section, the term "problem-solving  
195 court" includes, but is not limited to, a drug court pursuant to  
196 s. 397.334, s. 948.01, s. 948.06, s. 948.08, s. 948.16, or s.  
197 948.20; a veterans treatment ~~military veterans' and~~  
198 ~~servicemembers'~~ court pursuant to s. 394.47891, s. 948.08, s.  
199 948.16, or s. 948.21; a mental health court program pursuant to  
200 s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16; a  
201 community court pursuant to s. 948.081; or a delinquency  
202 pretrial intervention court program pursuant to s. 985.345.

203 Section 3. Paragraph (a) of subsection (5) of section

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204 910.035, Florida Statutes, is amended to read:

205 910.035 Transfer from county for plea, sentence, or  
206 participation in a problem-solving court.-

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

208 (a) For purposes of this subsection, the term "problem-  
209 solving court" means a drug court pursuant to s. 948.01, s.  
210 948.06, s. 948.08, s. 948.16, or s. 948.20; a veterans treatment  
211 ~~military veterans' and servicemembers'~~ court pursuant to s.  
212 394.47891, s. 948.08, s. 948.16, or s. 948.21; a mental health  
213 court program pursuant to s. 394.47892, s. 948.01, s. 948.06, s.  
214 948.08, or s. 948.16; or a delinquency pretrial intervention  
215 court program pursuant to s. 985.345.

216 Section 4. Paragraph (k) of subsection (2) of section  
217 948.06, Florida Statutes, is amended to read:

218 948.06 Violation of probation or community control;  
219 revocation; modification; continuance; failure to pay  
220 restitution or cost of supervision.-

221 (2)

222 (k)1. Notwithstanding s. 921.0024 and effective for  
223 offenses committed on or after July 1, 2016, the court may order  
224 the offender to successfully complete a postadjudicatory mental  
225 health court program under s. 394.47892 or a veterans treatment  
226 ~~military veterans and servicemembers~~ court program under s.  
227 394.47891 if:

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

230 b. The underlying offense is a nonviolent felony. As used  
231 in this subsection, the term "nonviolent felony" means a third  
232 degree felony violation under chapter 810 or any other felony

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233 offense that is not a forcible felony as defined in s. 776.08.  
234 Offenders charged with resisting an officer with violence under  
235 s. 843.01, battery on a law enforcement officer under s. 784.07,  
236 or aggravated assault may participate in the mental health court  
237 program if the court so orders after the victim is given his or  
238 her right to provide testimony or written statement to the court  
239 as provided in s. 921.143;

240 c. The court determines that the offender is amenable to  
241 the services of a postadjudicatory mental health court program,  
242 including taking prescribed medications, or a veterans treatment  
243 ~~military veterans and servicemembers~~ court program;

244 d. The court explains the purpose of the program to the  
245 offender and the offender agrees to participate; and

246 e. The offender is otherwise qualified to participate in a  
247 postadjudicatory mental health court program under s.  
248 394.47892(4) or a veterans treatment ~~military veterans and~~  
249 ~~servicemembers~~ court program under s. 394.47891.

250 2. After the court orders the modification of community  
251 control or probation, the original sentencing court shall  
252 relinquish jurisdiction of the offender's case to the  
253 postadjudicatory mental health court program until the offender  
254 is no longer active in the program, the case is returned to the  
255 sentencing court due to the offender's termination from the  
256 program for failure to comply with the terms thereof, or the  
257 offender's sentence is completed.

258 Section 5. Paragraph (a) of subsection (7) of section  
259 948.08, Florida Statutes, is amended to read:

260 948.08 Pretrial intervention program.—

261 (7) (a) Notwithstanding any provision of this section, a

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262 person who is charged with a felony, other than a felony listed  
263 in s. 948.06(8)(c), and who is identified as a veteran or a  
264 servicemember, as defined in s. 394.47891, and is otherwise  
265 qualified to participate in a veterans treatment court under s.  
266 394.47891 s. 1.01; a veteran who is discharged or released under  
267 any condition; a servicemember, as defined in s. 250.01; an  
268 individual who is a current or former United States Department  
269 of Defense contractor; or an individual who is a current or  
270 former military member of a foreign allied country, who suffers  
271 from a military service-related mental illness, traumatic brain  
272 injury, substance abuse disorder, or psychological problem is  
273 eligible for voluntary admission into a pretrial veterans'  
274 treatment intervention program approved by the chief judge of  
275 the circuit, upon motion of either party or the court's own  
276 motion, except:

277 1. If a defendant was previously offered admission to a  
278 pretrial veterans' treatment intervention program at any time  
279 before trial and the defendant rejected that offer on the  
280 record, the court may deny the defendant's admission to such a  
281 program.

282 2. If a defendant previously entered a court-ordered  
283 veterans' treatment program, the court may deny the defendant's  
284 admission into the pretrial veterans' treatment program.

285 Section 6. Paragraph (a) of subsection (2) of section  
286 948.16, Florida Statutes, is amended to read:

287 948.16 Misdemeanor pretrial substance abuse education and  
288 treatment intervention program; misdemeanor pretrial veterans'  
289 treatment intervention program; misdemeanor pretrial mental  
290 health court program.-

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291 (2) (a) A veteran or a servicemember, as defined in s.  
292 394.47891, who is otherwise qualified to participate in a  
293 veterans treatment court under that section s. 1.01; ~~a veteran~~  
294 ~~who is discharged or released under any condition; a~~  
295 ~~servicemember, as defined in s. 250.01; an individual who is a~~  
296 ~~current or former United States Department of Defense~~  
297 ~~contractor; or an individual who is a current or former military~~  
298 ~~member of a foreign allied country, who suffers from a military~~  
299 ~~service-related mental illness, traumatic brain injury,~~  
300 ~~substance abuse disorder, or psychological problem,~~ and who is  
301 charged with a misdemeanor is eligible for voluntary admission  
302 into a misdemeanor pretrial veterans' treatment intervention  
303 program approved by the chief judge of the circuit, for a period  
304 based on the program's requirements and the treatment plan for  
305 the offender, upon motion of either party or the court's own  
306 motion. However, the court may deny the defendant admission into  
307 a misdemeanor pretrial veterans' treatment intervention program  
308 if the defendant has previously entered a court-ordered  
309 veterans' treatment program.

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

313 948.21 Condition of probation or community control;  
314 military servicemembers and veterans.—

315 (4) Effective for a probationer or community controllee  
316 whose crime is committed on or after October 1, 2020, and is a  
317 veteran or a servicemember as defined in s. 394.47891, who is  
318 otherwise qualified to participate in a veterans treatment court  
319 under s. 394.47891, the court may, in addition to any other

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320 conditions imposed, impose a condition requiring the probationer  
321 or community controllee to participate in a treatment program  
322 capable of treating the probationer or community controllee's  
323 mental illness, traumatic brain injury, substance use disorder,  
324 or psychological problem.

325 Section 8. A Military Veterans and Servicemembers Court  
326 Program in operation under s. 394.47891, Florida Statutes, as of  
327 June 30, 2020, may continue to operate but must comply with the  
328 amendments made by this act to that section. This act does not  
329 affect or alter the rights or responsibilities of any person  
330 who, as of June 30, 2020, was admitted to and participating in a  
331 Military Veterans and Servicemembers Court Program established  
332 under s. 394.47891, Florida Statutes.

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