

By Senator Burgess

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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 certain courts to
5 create and administer veterans treatment courts for
6 specified purposes; providing standards for admission
7 into a veterans treatment court program; specifying
8 program implementation procedures, components, and
9 policies; specifying eligibility requirements for
10 participation in the program; requiring participant
11 agreements and specifying requirements for such
12 agreements; providing for construction; specifying
13 that the act does not create a right to participate in
14 the program; deleting provisions relating to the
15 Military Veterans and Servicemembers Court Program, to
16 conform; amending ss. 43.51, 910.035, and 948.06,
17 F.S.; conforming provisions to changes made by the
18 act; amending ss. 948.08 and 948.16, F.S.; revising
19 eligibility for certain pretrial programs to include
20 certain individuals eligible to participate in a
21 veterans treatment court; amending s. 948.21, F.S.;
22 authorizing a court to impose a condition requiring a
23 probationer or community controllee eligible to
24 participate in a veterans treatment court to
25 participate in certain treatment programs under
26 certain circumstances; specifying applicability of the
27 act to participants in certain court programs in
28 existence as of a specified date; providing an
29 effective date.

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31 Be It Enacted by the Legislature of the State of Florida:

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

35 394.47891 ~~Military~~ Veterans treatment and servicemembers
36 court programs.—

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

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

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

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

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

62 (c) "Servicemember" means:

63 1. A member of the active or reserve components of the
64 United States Army, Navy, Air Force, Marine Corps, or Coast
65 Guard;

66 2. A member of the Florida National Guard;

67 3. A current or former contractor for the United States
68 Department of Defense; or

69 4. A current or former military member of a foreign allied
70 country.

71 (d) "Veteran" means a person who has served in the
72 military.

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

76 (3) AUTHORIZATION.—

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

79 (b) A veterans treatment court may adjudicate misdemeanors
80 and felonies.

81 (c) The chief judge may issue administrative orders
82 concerning the veterans treatment court.

83 (d) The chief judge and state attorney of the circuit that
84 creates and administers the veterans treatment court have the
85 exclusive authority to determine whether veterans who have been
86 dishonorably discharged may participate in the veterans
87 treatment court within the circuit.

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88 (4) ADMISSION.—A defendant who meets the eligibility
89 requirements under subsection (8) may be admitted to a veterans
90 treatment court at any stage of a criminal proceeding. A
91 defendant seeking to participate in a veterans treatment court
92 must submit an application to the state attorney. The state
93 attorney and court must review each application and determine
94 whether the defendant meets the eligibility requirements in
95 subsection (8).

96 (5) RECORD OF POLICIES AND PROCEDURES.—

97 (a) Each veterans treatment court shall seek input from the
98 state attorney and other interested persons in developing and
99 adopting policies and procedures to implement subsections (6)
100 and (7).

101 (b) A veterans treatment court shall create a record of the
102 policies and procedures adopted to implement subsections (6) and
103 (7).

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

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

107 1. Integrating substance abuse and mental health treatment
108 services and any other related treatment and rehabilitation
109 services with justice system case processing;

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

113 3. Providing for early identification of eligible
114 defendants;

115 4. Monitoring defendants for abstinence from alcohol and
116 drugs by frequent testing;

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117 5. Providing ongoing judicial interaction with each
118 defendant;

119 6. Monitoring and evaluating the achievement of each
120 defendant's program goals; and

121 7. Forging partnerships among the veterans treatment
122 courts, the United States Department of Veterans Affairs, the
123 Florida Department of Veterans' Affairs, public agencies, and
124 community-based organizations to generate local support and
125 enhance the effectiveness of the veterans treatment court.

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

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

132 (a) Refer a defendant with a medical need to an appropriate
133 health care provider or refer a defendant for appropriate
134 assistance, including assistance with housing, employment,
135 nutrition, mentoring, education, and driver license
136 reinstatement.

137 (b) Otherwise encourage participation in the veterans
138 treatment court.

139 (8) ELIGIBILITY.—

140 (a) A defendant may participate in a veterans treatment
141 court if:

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

144 2. The defendant voluntarily agrees to the terms of the
145 participant agreement by signing the agreement; and

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146 3. The defendant's participation in the veterans treatment
147 court is in the interest of justice and of benefit to the
148 defendant and the community, as determined by:

149 a. The state attorney, with regard to pretrial diversion;
150 and

151 b. The court, with regard to all other matters.

152 (b) In making the determination under subparagraph (a)3.,
153 the state attorney and court must consider:

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

155 2. The special characteristics or circumstances of the
156 defendant and any victim or alleged victim, including any
157 recommendation of the victim or alleged victim;

158 3. The defendant's criminal history and whether the
159 defendant previously participated in a veterans treatment court
160 or similar program;

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

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

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

167 7. If the defendant owes restitution, the likelihood of
168 payment during the defendant's participation in the veterans
169 treatment court;

170 8. Any mitigating circumstances; and

171 9. Any other circumstances reasonably related to the
172 defendant's case.

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

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175 approve, a participant agreement. If admission to the veterans
176 treatment court occurs pretrial, the state attorney must sign
177 the participant agreement.

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

182 (11) COMPLETION OF THE PARTICIPANT AGREEMENT.—If a veterans
183 treatment court determines that a defendant has completed the
184 requirements of the participant agreement, the court shall
185 dispose of the charge or charges that served as the basis for
186 participation in the veterans treatment court in accordance with
187 the participant agreement and any applicable plea agreement,
188 court order, or judgment.

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

191 (13) NO RIGHT TO PARTICIPATE.—This section does not create
192 a right of a veteran or servicemember to participate in a
193 veterans treatment court ~~The chief judge of each judicial~~
194 ~~circuit may establish a Military Veterans and Servicemembers~~
195 ~~Court Program under which veterans, as defined in s. 1.01;~~
196 ~~veterans who were discharged or released under any condition;~~
197 ~~servicemembers, as defined in s. 250.01; individuals who are~~
198 ~~current or former United States Department of Defense~~
199 ~~contractors; and individuals who are current or former military~~
200 ~~members of a foreign allied country, who are charged or~~
201 ~~convicted of a criminal offense, and who suffer from a military-~~
202 ~~related mental illness, traumatic brain injury, substance abuse~~
203 ~~disorder, or psychological problem can be sentenced in~~

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204 ~~accordance with chapter 921 in a manner that appropriately~~
205 ~~addresses the severity of the mental illness, traumatic brain~~
206 ~~injury, substance abuse disorder, or psychological problem~~
207 ~~through services tailored to the individual needs of the~~
208 ~~participant. Entry into any Military Veterans and Servicemembers~~
209 ~~Court Program must be based upon the sentencing court's~~
210 ~~assessment of the defendant's criminal history, military~~
211 ~~service, substance abuse treatment needs, mental health~~
212 ~~treatment needs, amenability to the services of the program, the~~
213 ~~recommendation of the state attorney and the victim, if any, and~~
214 ~~the defendant's agreement to enter the program.~~

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

217 43.51 Problem-solving court reports.—

218 (2) For purposes of this section, the term "problem-solving
219 court" includes, but is not limited to, a drug court pursuant to
220 s. 397.334, s. 948.01, s. 948.06, s. 948.08, s. 948.16, or s.
221 948.20; a veterans treatment ~~military veterans' and~~
222 ~~servicemembers'~~ court pursuant to s. 394.47891, s. 948.08, s.
223 948.16, or s. 948.21; a mental health court program pursuant to
224 s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16; a
225 community court pursuant to s. 948.081; or a delinquency
226 pretrial intervention court program pursuant to s. 985.345.

227 Section 3. Paragraph (a) of subsection (5) of section
228 910.035, Florida Statutes, is amended to read:

229 910.035 Transfer from county for plea, sentence, or
230 participation in a problem-solving court.—

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

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

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233 solving court" means a drug court pursuant to s. 948.01, s.
234 948.06, s. 948.08, s. 948.16, or s. 948.20; a veterans treatment
235 ~~military veterans' and servicemembers'~~ court pursuant to s.
236 394.47891, s. 948.08, s. 948.16, or s. 948.21; a mental health
237 court program pursuant to s. 394.47892, s. 948.01, s. 948.06, s.
238 948.08, or s. 948.16; or a delinquency pretrial intervention
239 court program pursuant to s. 985.345.

240 Section 4. Paragraph (k) of subsection (2) of section
241 948.06, Florida Statutes, is amended to read:

242 948.06 Violation of probation or community control;
243 revocation; modification; continuance; failure to pay
244 restitution or cost of supervision.—

245 (2)

246 (k)1. Notwithstanding s. 921.0024 and effective for
247 offenses committed on or after July 1, 2016, the court may order
248 the offender to successfully complete a postadjudicatory mental
249 health court program under s. 394.47892 or a veterans treatment
250 ~~military veterans and servicemembers~~ court program under s.
251 394.47891 if:

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

254 b. The underlying offense is a nonviolent felony. As used
255 in this subsection, the term "nonviolent felony" means a third
256 degree felony violation under chapter 810 or any other felony
257 offense that is not a forcible felony as defined in s. 776.08.
258 Offenders charged with resisting an officer with violence under
259 s. 843.01, battery on a law enforcement officer under s. 784.07,
260 or aggravated assault may participate in the mental health court
261 program if the court so orders after the victim is given his or

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

264 c. The court determines that the offender is amenable to
265 the services of a postadjudicatory mental health court program,
266 including taking prescribed medications, or a veterans treatment
267 ~~military veterans and servicemembers~~ court program;

268 d. The court explains the purpose of the program to the
269 offender and the offender agrees to participate; and

270 e. The offender is otherwise qualified to participate in a
271 postadjudicatory mental health court program under s.
272 394.47892(4) or a veterans treatment ~~military veterans and~~
273 ~~servicemembers~~ court program under s. 394.47891.

274 2. After the court orders the modification of community
275 control or probation, the original sentencing court shall
276 relinquish jurisdiction of the offender's case to the
277 postadjudicatory mental health court program or the veterans
278 treatment court until the offender is no longer active in the
279 program, the case is returned to the sentencing court due to the
280 offender's termination from the program for failure to comply
281 with the terms thereof, or the offender's sentence is completed.

282 Section 5. Paragraph (a) of subsection (7) of section
283 948.08, Florida Statutes, is amended to read:

284 948.08 Pretrial intervention program.—

285 (7) (a) Notwithstanding any provision of this section, a
286 person who is charged with a felony, other than a felony listed
287 in s. 948.06(8)(c), and who is identified as a veteran or a
288 servicemember, as defined in s. 394.47891, and is otherwise
289 qualified to participate in a veterans treatment court under s.
290 394.47891, s. 1.01; a veteran who is discharged or released

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291 ~~under any condition; a servicemember, as defined in s. 250.01;~~
292 ~~an individual who is a current or former United States~~
293 ~~Department of Defense contractor; or an individual who is a~~
294 ~~current or former military member of a foreign allied country,~~
295 ~~who suffers from a military service-related mental illness,~~
296 ~~traumatic brain injury, substance abuse disorder, or~~
297 ~~psychological problem~~ is eligible for voluntary admission into a
298 pretrial veterans' treatment intervention program approved by
299 the chief judge of the circuit, upon motion of either party or
300 the court's own motion, except:

301 1. If a defendant was previously offered admission to a
302 pretrial veterans' treatment intervention program at any time
303 before trial and the defendant rejected that offer on the
304 record, the court may deny the defendant's admission to such a
305 program.

306 2. If a defendant previously entered a court-ordered
307 veterans' treatment program, the court may deny the defendant's
308 admission into the pretrial veterans' treatment program.

309 Section 6. Paragraph (a) of subsection (2) of section
310 948.16, Florida Statutes, is amended to read:

311 948.16 Misdemeanor pretrial substance abuse education and
312 treatment intervention program; misdemeanor pretrial veterans'
313 treatment intervention program; misdemeanor pretrial mental
314 health court program.—

315 (2) (a) A veteran or a servicemember, as defined in s.
316 394.47891, who is otherwise qualified to participate in a
317 veterans treatment court under that section s. 1.01; ~~a veteran~~
318 ~~who is discharged or released under any condition; a~~
319 ~~servicemember, as defined in s. 250.01; an individual who is a~~

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320 ~~current or former United States Department of Defense~~
321 ~~contractor; or an individual who is a current or former military~~
322 ~~member of a foreign allied country, who suffers from a military~~
323 ~~service-related mental illness, traumatic brain injury,~~
324 ~~substance abuse disorder, or psychological problem,~~ and who is
325 charged with a misdemeanor is eligible for voluntary admission
326 into a misdemeanor pretrial veterans' treatment intervention
327 program approved by the chief judge of the circuit, for a period
328 based on the program's requirements and the treatment plan for
329 the offender, upon motion of either party or the court's own
330 motion. However, the court may deny the defendant admission into
331 a misdemeanor pretrial veterans' treatment intervention program
332 if the defendant has previously entered a court-ordered
333 veterans' treatment program.

334 Section 7. Present subsection (4) of section 948.21,
335 Florida Statutes, is redesignated as subsection (5), and a new
336 subsection (4) is added to that section, to read:

337 948.21 Condition of probation or community control;
338 military servicemembers and veterans.—

339 (4) Effective for a probationer or community controllee
340 whose crime is committed on or after July 1, 2021, who is a
341 veteran or a servicemember as defined in s. 394.47891, and who
342 is otherwise qualified to participate in a veterans treatment
343 court under s. 394.47891, the court may, in addition to any
344 other conditions imposed, impose a condition requiring the
345 probationer or community controllee to participate in a
346 treatment program capable of treating the probationer or
347 community controllee's mental illness, traumatic brain injury,
348 substance abuse disorder, or psychological problem.

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349 Section 8. A Military Veterans and Servicemembers Court
350 Program in operation under s. 394.47891, Florida Statutes, on or
351 before June 30, 2021, may continue to operate following the
352 effective date of this act, but must comply with the amendments
353 made by this act to that section. This act does not affect or
354 alter the rights or responsibilities of any person who, on or
355 before June 30, 2021, was admitted to and participating in a
356 Military Veterans and Servicemembers Court Program established
357 under s. 394.47891, Florida Statutes.

358 Section 9. This act shall take effect July 1, 2021.