

By the Committees on Criminal Justice; and Military and Veterans Affairs, Space, and Domestic Security; and Senator Burgess

591-03241-21

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

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

34 394.47891 ~~Military~~ Veterans treatment and servicemembers
35 court programs.—

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

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

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

57 (b) "Servicemember" means:

58 1. A member of the active or reserve components of the

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59 United States Army, Navy, Air Force, Marine Corps, or Coast
60 Guard;

61 2. A member of the Florida National Guard or a National
62 Guard of another state;

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

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

67 (c) "Veteran" means a person who has served in the
68 military.

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

72 (3) AUTHORIZATION.—

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

75 (b) A veterans treatment court may adjudicate misdemeanors
76 and felonies.

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

79 (d) The court, after a hearing, shall determine on a case-
80 by-case basis whether veterans who have been dishonorably
81 discharged may participate in a veterans treatment court.

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

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88 whether the defendant meets the eligibility requirements in
89 subsection (8).

90 (5) RECORD OF POLICIES AND PROCEDURES.—

91 (a) Each veterans treatment court shall seek input from the
92 state attorney, defense counsel, and other interested persons in
93 developing and adopting policies and procedures to implement
94 subsections (6) and (7).

95 (b) A veterans treatment court shall create a record of the
96 policies and procedures adopted to implement subsections (6) and
97 (7).

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

99 (a) A veterans treatment court shall adopt policies and
100 procedures to implement the following key components:

101 1. Integrating substance abuse and mental health treatment
102 services and any other related treatment and rehabilitation
103 services with justice system case processing;

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

107 3. Providing for early identification of eligible
108 defendants;

109 4. Monitoring defendants for abstinence from alcohol and
110 drugs by frequent testing;

111 5. Providing ongoing judicial interaction with each
112 defendant;

113 6. Monitoring and evaluating the achievement of each
114 defendant's program goals; and

115 7. Forging partnerships among the veterans treatment
116 courts, the United States Department of Veterans Affairs, the

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117 Florida Department of Veterans' Affairs, public agencies, and
118 community-based organizations to generate local support and
119 enhance the effectiveness of the veterans treatment court.

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

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

126 (a) Refer a defendant with a medical need to an appropriate
127 health care provider or refer a defendant for appropriate
128 assistance, including assistance with housing, employment,
129 nutrition, mentoring, education, and driver license
130 reinstatement.

131 (b) Otherwise encourage participation in the veterans
132 treatment court.

133 (8) ELIGIBILITY.—

134 (a) A defendant may participate in a veterans treatment
135 court if:

136 1. The defendant has a military- or service-related mental
137 health condition, traumatic brain injury, substance use
138 disorder, or psychological problem; and

139 2. The defendant's participation in the veterans treatment
140 court is in the interest of justice and of benefit to the
141 defendant and the community, as determined by:

142 a. The state attorney, with regard to pretrial diversion;
143 and

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

145 (b) In making the determination under subparagraph (a)2.,

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146 the state attorney and court must consider:

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

148 2. The special characteristics or circumstances of the
149 defendant and any victim or alleged victim, including any
150 recommendation of the victim or alleged victim;

151 3. The defendant's criminal history and whether the
152 defendant previously participated in a veterans treatment court
153 or similar program;

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

156 5. The effect on the community of the defendant's
157 participation and treatment in the veterans treatment court;

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

160 7. If the defendant owes restitution, the likelihood of
161 payment during the defendant's participation in the veterans
162 treatment court;

163 8. Any mitigating circumstances; and

164 9. Any other circumstances reasonably related to the
165 defendant's case.

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

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

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

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

194 43.51 Problem-solving court reports.—

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

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204 Section 3. Paragraph (a) of subsection (5) of section
205 910.035, Florida Statutes, is amended to read:

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

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

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

217 Section 4. Paragraph (k) of subsection (2) of section
218 948.06, Florida Statutes, is amended to read:

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

222 (2)

223 (k)1. Notwithstanding s. 921.0024 and effective for
224 offenses committed on or after July 1, 2016, the court may order
225 the offender to successfully complete a postadjudicatory mental
226 health court program under s. 394.47892 or a veterans treatment
227 ~~military veterans and servicemembers~~ court program under s.
228 394.47891 if:

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

231 b. The underlying offense is a nonviolent felony. As used
232 in this subsection, the term “nonviolent felony” means a third

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233 degree felony violation under chapter 810 or any other felony
234 offense that is not a forcible felony as defined in s. 776.08.
235 Offenders charged with resisting an officer with violence under
236 s. 843.01, battery on a law enforcement officer under s. 784.07,
237 or aggravated assault may participate in the mental health court
238 program if the court so orders after the victim is given his or
239 her right to provide testimony or written statement to the court
240 as provided in s. 921.143;

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

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

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

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

260 Section 5. Paragraph (a) of subsection (7) of section
261 948.08, Florida Statutes, is amended to read:

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262 948.08 Pretrial intervention program.—

263 (7) (a) ~~Notwithstanding any provision of this section, A~~
264 ~~person who is charged with a felony, other than a felony listed~~
265 ~~in s. 948.06(8)(c), and who is identified as a veteran or a~~
266 ~~servicemember, as defined in s. 394.47891, and is otherwise~~
267 ~~qualified to participate in a veterans treatment court program~~
268 ~~under s. 394.47891 s. 1.01; a veteran who is discharged or~~
269 ~~released under any condition; a servicemember, as defined in s.~~
270 ~~250.01; an individual who is a current or former United States~~
271 ~~Department of Defense contractor; or an individual who is a~~
272 ~~current or former military member of a foreign allied country,~~
273 ~~who suffers from a military service-related mental illness,~~
274 ~~traumatic brain injury, substance abuse disorder, or~~
275 ~~psychological problem is eligible for voluntary admission into a~~
276 ~~veterans treatment court program pursuant to the requirements of~~
277 ~~s. 394.47891(4) and (8). ~~pretrial veterans' treatment~~~~

278 ~~intervention program approved by the chief judge of the circuit,~~
279 ~~upon motion of either party or the court's own motion, except:~~

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

285 2. ~~If a defendant previously entered a court-ordered~~
286 ~~veterans' treatment program, the court may deny the defendant's~~
287 ~~admission into the pretrial veterans' treatment program.~~

288 Section 6. Paragraph (a) of subsection (2) of section
289 948.16, Florida Statutes, is amended to read:

290 948.16 Misdemeanor pretrial substance abuse education and

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291 treatment intervention program; misdemeanor pretrial veterans'
292 treatment intervention program; misdemeanor pretrial mental
293 health court program.-

294 (2) (a) A veteran or a servicemember, as defined in s.
295 394.47891, who is otherwise qualified to participate in a
296 veterans treatment court program under s. 394.47891 s. 1.01; a
297 ~~veteran who is discharged or released under any condition; a~~
298 ~~servicemember, as defined in s. 250.01; an individual who is a~~
299 ~~current or former United States Department of Defense~~
300 ~~contractor; or an individual who is a current or former military~~
301 ~~member of a foreign allied country, who suffers from a military~~
302 ~~service-related mental illness, traumatic brain injury,~~
303 ~~substance abuse disorder, or psychological problem, and who is~~
304 charged with a misdemeanor is eligible for ~~voluntary~~ admission
305 into a misdemeanor veterans treatment court ~~pretrial veterans'~~
306 ~~treatment intervention program approved by the chief judge of~~
307 ~~the circuit~~, for a period based on the program's requirements
308 and the treatment plan for the offender, pursuant to the
309 requirements of s. 394.47891(4) and (8) ~~upon motion of either~~
310 ~~party or the court's own motion. However, the court may deny the~~
311 ~~defendant admission into a misdemeanor pretrial veterans'~~
312 ~~treatment intervention program if the defendant has previously~~
313 ~~entered a court-ordered veterans' treatment program.~~

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

317 948.21 Condition of probation or community control;
318 military servicemembers and veterans.-

319 (4) Effective for a probationer or community controllee

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320 whose crime is committed on or after July 1, 2021, who is a
321 veteran or a servicemember as defined in s. 394.47891, and who
322 is otherwise qualified to participate in a veterans treatment
323 court program under s. 394.47891, the court may, in addition to
324 any other conditions imposed, require the probationer or
325 community controllee to participate in a treatment program
326 capable of treating the probationer or community controllee's
327 military- or service-related mental illness, traumatic brain
328 injury, substance use disorder, or psychological problem.

329 Section 8. A Military Veterans and Servicemembers Court
330 Program in operation under s. 394.47891, Florida Statutes, on or
331 before June 30, 2021, may continue to operate following the
332 effective date of this act, but must comply with the amendments
333 made by this act to that section. This act does not affect or
334 alter the rights or responsibilities of any person who, on or
335 before June 30, 2021, was admitted to and participating in a
336 Military Veterans and Servicemembers Court Program established
337 under s. 394.47891, Florida Statutes.

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