

1                                   A bill to be entitled  
 2           An act relating to veterans treatment court; amending  
 3           s. 394.47891, F.S.; providing legislative intent;  
 4           providing definitions; authorizing certain courts to  
 5           create and administer veterans treatment courts;  
 6           providing eligibility criteria for participation in  
 7           the veterans treatment court program; specifying  
 8           program implementation procedures, components, and  
 9           policies; requiring participant agreements and  
 10          specifying requirements for such agreements;  
 11          specifying that the act does not create a right to  
 12          participate; amending s. 43.51, F.S.; amending s.  
 13          910.035, F.S.; amending s. 948.06, F.S.; making  
 14          conforming changes; amending s. 948.08, F.S.;  
 15          providing for eligibility for a pretrial intervention  
 16          program; amending s. 948.16, F.S.; providing for  
 17          eligibility for a pretrial program; amending s.  
 18          948.21, F.S.; providing discretion for a court to  
 19          impose conditions in specified cases; providing for  
 20          applicability to participants in certain court  
 21          programs in existence as of June 30, 2020; providing  
 22          an effective date.

23  
 24    Be It Enacted by the Legislature of the State of Florida:  
 25

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

28 394.47891 ~~Military~~ Veterans treatment and servicemembers  
 29 court programs.—

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

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

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

51 (b) "Participant agreement" means the agreement as set  
 52 forth in subsection (9) and any specific terms and conditions  
 53 applicable to the defendant. The term includes any modifications  
 54 made to the agreement under subsection (10).

55 (c) "Servicemember" means:

56 1. A member of the active or reserve components of the  
 57 United States Army, Navy, Air Force, Marine Corps, or Coast  
 58 Guard;

59 2. A member of the Florida National Guard;

60 3. A current or former contractor for the United States  
 61 Department of Defense; or

62 4. A current or former military member of a foreign allied  
 63 country.

64 (d) "Veteran" means a person who has served in the  
 65 military.

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

69 (3) AUTHORIZATION.—

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

72 (b) A veterans treatment court may adjudicate misdemeanors  
 73 and felonies.

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

76 (d) The chief judge and state attorney of the circuit that  
 77 creates and administers the veterans treatment court have the  
 78 exclusive authority to determine whether veterans who have been  
 79 dishonorably discharged may participate in the veterans  
 80 treatment court within the circuit.

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

89 (5) RECORD OF POLICIES AND PROCEDURES.—

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

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

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

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

100 1. Integrating substance abuse and mental health treatment

101 services, and any other related treatment and rehabilitation  
102 services with justice system case processing;

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

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

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

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

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

114 7. Forging partnerships among the veterans treatment  
115 courts, the United States Department of Veterans Affairs, the  
116 Florida Department of Veterans' Affairs, public agencies, and  
117 community-based organizations to generate local support and  
118 enhance the effectiveness of the veterans treatment court.

119 (b) In adopting policies and procedures under this  
120 section, the court shall consult nationally recognized best  
121 practices related to the key components of veterans treatment  
122 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  
 127 appropriate health care provider or refer a defendant for  
 128 appropriate assistance, including assistance with housing,  
 129 employment, 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 mental health condition, traumatic  
 137 brain injury, substance use disorder, or psychological problem;

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

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

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

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

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

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

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

151 recommendation of the victim or alleged victim;

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

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

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

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

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

164 8. Any mitigating circumstances; and

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

167 (9) PARTICIPANT AGREEMENT.—To participate in a veterans  
 168 treatment court, the defendant must sign, and the court must  
 169 approve, a participant agreement. If admission to the veterans  
 170 treatment court occurs pretrial, the state attorney must sign  
 171 the participant agreement.

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

176        (11) COMPLETION OF THE PARTICIPANT AGREEMENT.—If a  
 177 veterans treatment court determines that a defendant has  
 178 completed the requirements of the participant agreement, the  
 179 court shall dispose of the charge or charges that served as the  
 180 basis for participation in the veterans treatment court in  
 181 accordance with the participant agreement and any applicable  
 182 plea agreement, court order, or judgment.

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

185        (13) NO RIGHT TO PARTICIPATE.—This section does not create  
 186 a right of a veteran or servicemember to participate in a  
 187 veterans treatment court.

188  
 189 ~~The chief judge of each judicial circuit may establish a~~  
 190 ~~Military Veterans and Servicemembers Court Program under which~~  
 191 ~~veterans, as defined in s. 1.01; veterans who were discharged or~~  
 192 ~~released under any condition; servicemembers, as defined in s.~~  
 193 ~~250.01; individuals who are current or former United States~~  
 194 ~~Department of Defense contractors; and individuals who are~~  
 195 ~~current or former military members of a foreign allied country,~~  
 196 ~~who are charged or convicted of a criminal offense, and who~~  
 197 ~~suffer from a military-related mental illness, traumatic brain~~  
 198 ~~injury, substance abuse disorder, or psychological problem can~~  
 199 ~~be sentenced in accordance with chapter 921 in a manner that~~  
 200 ~~appropriately addresses the severity of the mental illness,~~

201 ~~traumatic brain injury, substance abuse disorder, or~~  
 202 ~~psychological problem through services tailored to the~~  
 203 ~~individual needs of the participant. Entry into any Military~~  
 204 ~~Veterans and Servicemembers Court Program must be based upon the~~  
 205 ~~sentencing court's assessment of the defendant's criminal~~  
 206 ~~history, military service, substance abuse treatment needs,~~  
 207 ~~mental health treatment needs, amenability to the services of~~  
 208 ~~the program, the recommendation of the state attorney and the~~  
 209 ~~victim, if any, and the defendant's agreement to enter the~~  
 210 ~~program.~~

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

213 43.51 Problem-solving court reports.-

214 (2) For purposes of this section, the term "problem-  
 215 solving court" includes, but is not limited to, a drug court  
 216 pursuant to s. 397.334, s. 948.01, s. 948.06, s. 948.08, s.  
 217 948.16, or s. 948.20; a veterans treatment ~~military veterans'~~  
 218 ~~and servicemembers'~~ court pursuant to s. 394.47891, s. 948.08,  
 219 s. 948.16, or s. 948.21; a mental health court program pursuant  
 220 to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16;  
 221 a community court pursuant to s. 948.081; or a delinquency  
 222 pretrial intervention court program pursuant to s. 985.345.

223 Section 3. Paragraph (a) of subsection (5) of section  
 224 910.035, Florida Statutes, is amended to read:

225 910.035 Transfer from county for plea, sentence, or

226 participation in a problem-solving court.-

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

229 (a) For purposes of this subsection, the term "problem-  
230 solving court" means a drug court pursuant to s. 948.01, s.  
231 948.06, s. 948.08, s. 948.16, or s. 948.20; a veterans treatment  
232 ~~military veterans' and servicemembers'~~ court pursuant to s.  
233 394.47891, s. 948.08, s. 948.16, or s. 948.21; a mental health  
234 court program pursuant to s. 394.47892, s. 948.01, s. 948.06, s.  
235 948.08, or s. 948.16; or a delinquency pretrial intervention  
236 court program pursuant to s. 985.345.

237 Section 4. Paragraph (k) of subsection (2) of section  
238 948.06, Florida Statutes, is amended to read:

239 948.06 Violation of probation or community control;  
240 revocation; modification; continuance; failure to pay  
241 restitution or cost of supervision.-

242 (2)

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

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

251           b. The underlying offense is a nonviolent felony. As used  
 252 in this subsection, the term "nonviolent felony" means a third  
 253 degree felony violation under chapter 810 or any other felony  
 254 offense that is not a forcible felony as defined in s. 776.08.  
 255 Offenders charged with resisting an officer with violence under  
 256 s. 843.01, battery on a law enforcement officer under s. 784.07,  
 257 or aggravated assault may participate in the mental health court  
 258 program if the court so orders after the victim is given his or  
 259 her right to provide testimony or written statement to the court  
 260 as provided in s. 921.143;

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

265           d. The court explains the purpose of the program to the  
 266 offender and the offender agrees to participate; and

267           e. The offender is otherwise qualified to participate in a  
 268 postadjudicatory mental health court program under s.  
 269 394.47892(4) or a veterans treatment ~~military veterans and~~  
 270 ~~servicemembers~~ court program under s. 394.47891.

271           2. After the court orders the modification of community  
 272 control or probation, the original sentencing court shall  
 273 relinquish jurisdiction of the offender's case to the  
 274 postadjudicatory mental health court program or the veterans  
 275 treatment court until the offender is no longer active in the

276 program, the case is returned to the sentencing court due to the  
 277 offender's termination from the program for failure to comply  
 278 with the terms thereof, or the offender's sentence is completed.

279 Section 5. Paragraph (a) of subsection (7) of section  
 280 948.08, Florida Statutes, is amended to read:

281 948.08 Pretrial intervention program.—

282 (7) (a) Notwithstanding any provision of this section, a  
 283 person who is charged with a felony, other than a felony listed  
 284 in s. 948.06(8)(c), and who is identified as a veteran or a  
 285 servicemember, as defined in s. 394.47891, and is otherwise  
 286 qualified to participate in a veterans treatment court under s.  
 287 394.47891 s. 1.01; a veteran who is discharged or released under  
 288 any condition; a servicemember, as defined in s. 250.01; an  
 289 individual who is a current or former United States Department  
 290 of Defense contractor; or an individual who is a current or  
 291 former military member of a foreign allied country, who suffers  
 292 from a military service-related mental illness, traumatic brain  
 293 injury, substance abuse disorder, or psychological problem is  
 294 eligible for voluntary admission into a pretrial veterans'  
 295 treatment intervention program approved by the chief judge of  
 296 the circuit, upon motion of either party or the court's own  
 297 motion, except:

298 1. If a defendant was previously offered admission to a  
 299 pretrial veterans' treatment intervention program at any time  
 300 before trial and the defendant rejected that offer on the

301 record, the court may deny the defendant's admission to such a  
 302 program.

303 2. If a defendant previously entered a court-ordered  
 304 veterans' treatment program, the court may deny the defendant's  
 305 admission into the pretrial veterans' treatment program.

306 Section 6. Paragraph (a) of subsection (2) of section  
 307 948.16, Florida Statutes, is amended to read:

308 948.16 Misdemeanor pretrial substance abuse education and  
 309 treatment intervention program; misdemeanor pretrial veterans'  
 310 treatment intervention program; misdemeanor pretrial mental  
 311 health court program.-

312 (2) (a) A veteran or a servicemember, as defined in s.  
 313 394.47891, who is otherwise qualified to participate in a  
 314 veterans treatment court under that section s. 1.01; ~~a veteran~~  
 315 ~~who is discharged or released under any condition; a~~  
 316 ~~servicemember, as defined in s. 250.01; an individual who is a~~  
 317 ~~current or former United States Department of Defense~~  
 318 ~~contractor; or an individual who is a current or former military~~  
 319 ~~member of a foreign allied country, who suffers from a military~~  
 320 ~~service-related mental illness, traumatic brain injury,~~  
 321 ~~substance abuse disorder, or psychological problem,~~ and who is  
 322 charged with a misdemeanor is eligible for voluntary admission  
 323 into a misdemeanor pretrial veterans' treatment intervention  
 324 program approved by the chief judge of the circuit, for a period  
 325 based on the program's requirements and the treatment plan for

326 | the offender, upon motion of either party or the court's own  
 327 | motion. However, the court may deny the defendant admission into  
 328 | a misdemeanor pretrial veterans' treatment intervention program  
 329 | if the defendant has previously entered a court-ordered  
 330 | veterans' treatment program.

331 | Section 7. Present subsection (4) of section 948.21,  
 332 | Florida Statutes, is renumbered as subsection (5), and a new  
 333 | subsection (4) is added to that section, to read:

334 | 948.21 Condition of probation or community control;  
 335 | military servicemembers and veterans.-

336 | (4) Effective for a probationer or community controllee  
 337 | whose crime is committed on or after October 1, 2020, and is a  
 338 | veteran or a servicemember as defined in s. 394.47891, who is  
 339 | otherwise qualified to participate in a veterans treatment court  
 340 | under s. 394.47891, the court may, in addition to any other  
 341 | conditions imposed, impose a condition requiring the probationer  
 342 | or community controllee to participate in a treatment program  
 343 | capable of treating the probationer or community controllee's  
 344 | mental illness, traumatic brain injury, substance abuse  
 345 | disorder, or psychological problem.

346 | Section 8. A Military Veterans and Servicemembers Court  
 347 | Program in operation under s. 394.47891, as of June 30, 2020,  
 348 | may continue to operate but must comply with the amendments made  
 349 | by this act to that section. This act does not affect or alter  
 350 | the rights or responsibilities of any person who, as of June 30,

PCS for HB 1085

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2020

351 | 2020, was admitted to and participating in a Military Veterans  
352 | and Servicemembers Court Program established under s. 394.47891.  
353 |       Section 9. This act shall take effect July 1, 2020.