

**By** the Committee on Criminal Justice; and Senators Bennett, Gaetz, and Dockery

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1                                   A bill to be entitled  
2           An act relating to military veterans convicted of  
3           criminal offenses; providing a short title; creating  
4           s. 921.00242, F.S.; providing that persons found to  
5           have committed criminal offenses who allege that the  
6           offenses resulted from posttraumatic stress disorder,  
7           traumatic brain injury, substance use disorder, or  
8           psychological problems stemming from service in a  
9           combat theater in the United States military may have  
10          a hearing on that issue before sentencing; providing  
11          that defendants found to have committed offenses due  
12          to such causes and who are eligible for probation or  
13          community control may be placed in treatment programs  
14          in certain circumstances; providing for sentence  
15          credit for defendants placed in treatment who would  
16          have otherwise been incarcerated; providing a  
17          preference for treatment programs that have histories  
18          of successfully treating such combat veterans;  
19          amending s. 948.08, F.S.; creating a pretrial  
20          veterans' treatment intervention program; providing  
21          requirements for a defendant to be voluntarily  
22          admitted to the pretrial program; providing certain  
23          exceptions to such admission; providing for the  
24          disposition of pending charges following a defendant's  
25          completion of the pretrial intervention program;  
26          providing for the charges to be expunged under certain  
27          circumstances; amending s. 948.16, F.S.; creating a  
28          misdemeanor pretrial veterans' treatment intervention  
29          program; providing requirements for voluntary

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30 admission to the misdemeanor pretrial program;  
31 providing for the misdemeanor charges to be expunged  
32 under certain circumstances; exempting treatment  
33 services provided by the Department of Veterans'  
34 Affairs or the United States Department of Veterans  
35 Affairs from certain contract requirements; providing  
36 an effective date.  
37

38 Be It Enacted by the Legislature of the State of Florida:  
39

40 Section 1. This act may be cited as the "T. Patt Maney  
41 Veterans' Treatment Intervention Act."

42 Section 2. Section 921.00242, Florida Statutes, is created  
43 to read:

44 921.00242 Convicted military veterans; posttraumatic stress  
45 disorder, traumatic brain injury, substance use disorder, or  
46 psychological problems from service; treatment services.-

47 (1) If a circuit or county court finds that a defendant has  
48 committed a criminal offense, the court must hold a veterans'  
49 status hearing prior to sentencing if the defendant has alleged  
50 that he or she committed the offense as a result of  
51 posttraumatic stress disorder, traumatic brain injury, substance  
52 use disorder, or psychological problems stemming from service in  
53 a combat theater in the United States military.

54 (2) At a veterans' status hearing conducted as required by  
55 subsection (1), the court shall determine whether the defendant  
56 was a member of the military forces of the United States who  
57 served in a combat theater and assess whether the defendant  
58 suffers from posttraumatic stress disorder, traumatic brain

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59 injury, substance use disorder, or psychological problems as a  
60 result of that service. The defendant shall bear the burden of  
61 proof at the hearing.

62 (3) If the court concludes that the defendant is a person  
63 described in subsection (2) who is eligible for probation or  
64 community control and the court places the defendant on county  
65 or state probation or into community control, the court may  
66 order the defendant into a local, state, federal, or private  
67 nonprofit treatment program as a condition of probation or  
68 community control if the defendant agrees to participate in the  
69 program and the court determines that an appropriate treatment  
70 program exists.

71 (4) A defendant who is placed on county or state probation  
72 or into community control and committed to a residential  
73 treatment program under this section shall earn sentence credits  
74 for the actual time he or she serves in the residential  
75 treatment program if the court makes a written finding that it  
76 would otherwise have sentenced the defendant to incarceration  
77 except for the fact that the defendant is a person described in  
78 subsection (2).

79 (5) In making an order under this section to commit a  
80 defendant to an treatment program, whenever possible the court  
81 shall place the defendant in a treatment program that has a  
82 history of successfully treating combat veterans who suffer from  
83 posttraumatic stress disorder, traumatic brain injury, substance  
84 use disorder, or psychological problems as a result of that  
85 service. The court shall give preference to treatment programs  
86 for which the veteran is eligible through the United States  
87 Department of Veterans Affairs or the Department of Veterans'

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88 Affairs.

89 Section 3. Present subsection (7) of section 948.08,  
90 Florida Statutes, is renumbered as subsection (8), and a new  
91 subsection (7) is added to that section, to read:

92 948.08 Pretrial intervention program.—

93 (7) (a) As used in this subsection, the term "disqualifying  
94 felony" means any offense that is listed in s. 948.06(8) (c).  
95 Notwithstanding any provision of this section, a person who is  
96 charged with a disqualifying felony and is identified as a  
97 member or former member of the military forces of the United  
98 States who served in a combat theater and who suffers from  
99 posttraumatic stress disorder, traumatic brain injury, substance  
100 use disorder, or psychological problems as a result of that  
101 service is eligible for voluntary admission into a pretrial  
102 veterans' treatment intervention program approved by the chief  
103 judge of the circuit, upon motion of either party or the court's  
104 own motion, except:

105 1. If a defendant was previously offered admission to a  
106 pretrial veterans' treatment intervention program at any time  
107 prior to trial and the defendant rejected that offer on the  
108 record, the court may deny the defendant's admission to such a  
109 program.

110 2. If a defendant previously entered a court-ordered  
111 veterans' treatment program, the court may deny the defendant's  
112 admission into the pretrial veterans' treatment program.

113 3. If the state attorney believes that the facts and  
114 circumstances of the case suggest the defendant's involvement in  
115 the selling of controlled substances, the court shall hold a  
116 preadmission hearing. If the state attorney establishes, by a

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117 preponderance of the evidence at such hearing, that the  
118 defendant was involved in the selling of controlled substances,  
119 the court shall deny the defendant's admission into a pretrial  
120 intervention program.

121 (b) While enrolled in a pretrial intervention program  
122 authorized by this subsection, the participant is subject to a  
123 coordinated strategy developed by a veterans' treatment  
124 intervention team. The coordinated strategy should be modeled  
125 after the therapeutic jurisprudence principles and key  
126 components in s. 397.334(4), with treatment specific to the  
127 needs of veterans. The coordinated strategy may include a  
128 protocol of sanctions that may be imposed upon the participant  
129 for noncompliance with program rules. The protocol of sanctions  
130 may include, but is not limited to, placement in a treatment  
131 program offered by a licensed service provider or in a jail-  
132 based treatment program or serving a period of incarceration  
133 within the time limits established for contempt of court. The  
134 coordinated strategy must be provided in writing to the  
135 participant before the participant agrees to enter into a  
136 pretrial veterans' treatment intervention program or other  
137 pretrial intervention program. Any person whose charges are  
138 dismissed after successful completion of the pretrial veterans'  
139 treatment intervention program, if otherwise eligible, may have  
140 his or her arrest record and plea of nolo contendere to the  
141 dismissed charges expunged under s. 943.0585.

142 (c) At the end of the pretrial intervention period, the  
143 court shall consider the recommendation of the administrator  
144 pursuant to subsection (5) and the recommendation of the state  
145 attorney as to disposition of the pending charges. The court

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146 shall determine, by written finding, whether the defendant has  
147 successfully completed the pretrial intervention program. If the  
148 court finds that the defendant has not successfully completed  
149 the pretrial intervention program, the court may order the  
150 person to continue in education and treatment, which may include  
151 treatment programs offered by licensed service providers or  
152 jail-based treatment programs, or order that the charges revert  
153 to normal channels for prosecution. The court shall dismiss the  
154 charges upon a finding that the defendant has successfully  
155 completed the pretrial intervention program.

156 Section 4. Section 948.16, Florida Statutes, is amended to  
157 read:

158 948.16 Misdemeanor pretrial substance abuse education and  
159 treatment intervention program; misdemeanor pretrial veterans'  
160 treatment intervention program.-

161 (1) (a) A person who is charged with a misdemeanor for  
162 possession of a controlled substance or drug paraphernalia under  
163 chapter 893, and who has not previously been convicted of a  
164 felony nor been admitted to a pretrial program, is eligible for  
165 voluntary admission into a misdemeanor pretrial substance abuse  
166 education and treatment intervention program, including a  
167 treatment-based drug court program established pursuant to s.  
168 397.334, approved by the chief judge of the circuit, for a  
169 period based on the program requirements and the treatment plan  
170 for the offender, upon motion of either party or the court's own  
171 motion, except, if the state attorney believes the facts and  
172 circumstances of the case suggest the defendant is involved in  
173 dealing and selling controlled substances, the court shall hold  
174 a preadmission hearing. If the state attorney establishes, by a

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175 preponderance of the evidence at such hearing, that the  
176 defendant was involved in dealing or selling controlled  
177 substances, the court shall deny the defendant's admission into  
178 the pretrial intervention program.

179 (b) While enrolled in a pretrial intervention program  
180 authorized by this section, the participant is subject to a  
181 coordinated strategy developed by a drug court team under s.  
182 397.334(4). The coordinated strategy may include a protocol of  
183 sanctions that may be imposed upon the participant for  
184 noncompliance with program rules. The protocol of sanctions may  
185 include, but is not limited to, placement in a substance abuse  
186 treatment program offered by a licensed service provider as  
187 defined in s. 397.311 or in a jail-based treatment program or  
188 serving a period of incarceration within the time limits  
189 established for contempt of court. The coordinated strategy must  
190 be provided in writing to the participant before the participant  
191 agrees to enter into a pretrial treatment-based drug court  
192 program or other pretrial intervention program. Any person whose  
193 charges are dismissed after successful completion of the  
194 treatment-based drug court program, if otherwise eligible, may  
195 have his or her arrest record and plea of nolo contendere to the  
196 dismissed charges expunged under s. 943.0585.

197 (2) (a) A member or former member of the military forces of  
198 the United States who served in a combat theater and who suffers  
199 from posttraumatic stress disorder, traumatic brain injury,  
200 substance use disorder, or psychological problems as a result of  
201 that service who is charged with a misdemeanor is eligible for  
202 voluntary admission into a misdemeanor pretrial veterans'  
203 treatment intervention program approved by the chief judge of

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204 the circuit, for a period based on the program requirements and  
205 the treatment plan for the offender, upon motion of either party  
206 or the court's own motion. However, the court may deny the  
207 defendant admission into a misdemeanor pretrial veterans'  
208 treatment intervention program if the defendant has previously  
209 entered a court-ordered veterans' treatment program.

210 (b) While enrolled in a pretrial intervention program  
211 authorized by this section, the participant is subject to a  
212 coordinated strategy developed by a veterans' treatment  
213 intervention team. The coordinated strategy should be modeled  
214 after the therapeutic jurisprudence principles and key  
215 components in s. 397.334(4), with treatment specific to the  
216 needs of veterans. The coordinated strategy may include a  
217 protocol of sanctions that may be imposed upon the participant  
218 for noncompliance with program rules. The protocol of sanctions  
219 may include, but is not limited to, placement in a treatment  
220 program offered by a licensed service provider or in a jail-  
221 based treatment program or serving a period of incarceration  
222 within the time limits established for contempt of court. The  
223 coordinated strategy must be provided in writing to the  
224 participant before the participant agrees to enter into a  
225 misdemeanor pretrial veterans' treatment intervention program or  
226 other pretrial intervention program. Any person whose charges  
227 are dismissed after successful completion of the misdemeanor  
228 pretrial veterans' treatment intervention program, if otherwise  
229 eligible, may have his or her arrest record and plea of nolo  
230 contendere to the dismissed charges expunged under s. 943.0585.

231 (3) ~~(2)~~ At the end of the pretrial intervention period, the  
232 court shall consider the recommendation of the treatment program



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233 and the recommendation of the state attorney as to disposition  
234 of the pending charges. The court shall determine, by written  
235 finding, whether the defendant successfully completed the  
236 pretrial intervention program. Notwithstanding the coordinated  
237 strategy developed by a drug court team pursuant to s.  
238 397.334(4) or by the veterans' treatment intervention team, if  
239 the court finds that the defendant has not successfully  
240 completed the pretrial intervention program, the court may order  
241 the person to continue in education and treatment or return the  
242 charges to the criminal docket for prosecution. The court shall  
243 dismiss the charges upon finding that the defendant has  
244 successfully completed the pretrial intervention program.

245 (4)(3) Any public or private entity providing a pretrial  
246 substance abuse education and treatment program under this  
247 section shall contract with the county or appropriate  
248 governmental entity. The terms of the contract shall include,  
249 but not be limited to, the requirements established for private  
250 entities under s. 948.15(3). This requirement does not apply to  
251 services provided by the Department of Veterans' Affairs or the  
252 United States Department of Veterans Affairs.

253 Section 5. This act shall take effect July 1, 2011.