

CHAPTER 2021-240

Committee Substitute for House Bill No. 7023

An act relating to veterans treatment court programs; amending s. 394.47891, F.S.; providing legislative intent; providing definitions; authorizing certain courts to create and administer veterans treatment court programs; authorizing certain eligible defendants to be admitted to a veterans treatment court program at any stage of a criminal proceeding; requiring such defendants to submit an application for participation in a veterans treatment court program to the state attorney for review; requiring each veterans treatment court program to seek input from certain persons in developing and adopting certain policies and procedures; requiring that a court create a record of such policies and procedures; providing eligibility criteria for participation in the veterans treatment court program; providing that the act does not create a right to participate; providing for liberal construction; deleting provisions addressing the Military Veterans and Servicemembers Court Program; amending ss. 43.51, 910.035, and 948.06, F.S.; conforming provisions to changes made by the act; amending ss. 948.08 and 948.16, F.S.; revising eligibility for pretrial programs; amending s. 948.21, F.S.; authorizing a court to impose a condition requiring certain probationers or community controllees to participate in certain treatment programs under certain circumstances; providing applicability; providing an effective date.

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

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

394.47891 Military Veterans treatment and servicemembers court programs.—

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

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

(a) “Defendant” means a veteran or servicemember who has been charged with or convicted of a criminal offense.

(b) “Military sexual trauma” means psychological trauma that results from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while a servicemember or veteran was serving on active duty, active duty for training, or inactive duty training.

(c) “Servicemember” means:

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

2. A member of the Florida National Guard;

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

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

(d) “Veteran” means a person who has served in the military.

(e) “Veterans treatment court program” means a specialized docket administered by a court for veterans and servicemembers as set forth in this section.

(3) AUTHORIZATION.—

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

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

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

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

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

(5) RECORD OF POLICIES AND PROCEDURES.—

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

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

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

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

1. Integrating substance abuse and mental health treatment services, and any other related treatment and rehabilitation services with justice system case processing.

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

3. Providing for early identification of eligible defendants.

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

5. Providing ongoing judicial interaction with each defendant.

6. Monitoring and evaluating the achievement of each defendant’s program goals.

7. Forging partnerships among the veterans treatment court programs, the United States Department of Veterans Affairs, the Florida Department of Veterans’ Affairs, public agencies, and community-based organizations to generate local support and enhance the effectiveness of the veterans treatment court program.

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

(7) SUPPLEMENTAL POLICIES AND PROCEDURES OF VETERANS TREATMENT COURT PROGRAMS.—A veterans treatment court program may adopt supplemental policies and procedures to:

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

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

(8) ELIGIBILITY.—

(a) A defendant may participate in a veterans treatment court program if he or she is approved by the state attorney, in consultation with the court, and meets the following criteria:

1. The defendant has a service-related mental health condition, service-related traumatic brain injury, service-related substance use disorder, or service-related psychological problem or has experienced military sexual trauma.

2. The defendant’s participation in the veterans treatment court program is in the interest of justice and of benefit to the defendant and the community.

(b) In making the determination under subparagraph (a)2., the state attorney, in consultation with the court, must consider:

1. The nature and circumstances of the offense charged.

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

3. The defendant’s criminal history and whether the defendant previously participated in a veterans treatment court program or similar program.

4. Whether the defendant’s needs exceed the treatment resources available to the veterans treatment court program.

5. The impact on the community of the defendant’s participation and treatment in the veterans treatment court program.

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

7. If the defendant owes restitution, the likelihood of payment during the defendant’s participation in the veterans treatment court program.

8. Any mitigating circumstances.

9. Any other circumstances reasonably related to the defendant’s case.

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

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

~~court program~~ The chief judge of each judicial circuit may establish a Military Veterans and Servicemembers Court Program under which veterans, as defined in s. 1.01; veterans who were discharged or released under any condition; servicemembers, as defined in s. 250.01; individuals who are current or former United States Department of Defense contractors; and individuals who are current or former military members of a foreign allied country, who are charged or convicted of a criminal offense, and who suffer from a military-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem can be sentenced in accordance with chapter 921 in a manner that appropriately addresses the severity of the mental illness, traumatic brain injury, substance abuse disorder, or psychological problem through services tailored to the individual needs of the participant. Entry into any Military Veterans and Servicemembers Court Program must be based upon the sentencing court's assessment of the defendant's criminal history, military service, substance abuse treatment needs, mental health treatment needs, amenability to the services of the program, the recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.

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

43.51 Problem-solving court reports.—

(2) For purposes of this section, the term “problem-solving court” includes, but is not limited to, a drug court pursuant to s. 397.334, s. 948.01, s. 948.06, s. 948.08, s. 948.16, or s. 948.20; a veterans treatment military veterans’ and servicemembers’ court program pursuant to s. 394.47891, s. 948.08, s. 948.16, or s. 948.21; a mental health court program pursuant to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16; a community court pursuant to s. 948.081; or a delinquency pretrial intervention court program pursuant to s. 985.345.

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

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

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

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

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

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

(2)

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

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

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

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

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

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

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

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

948.08 Pretrial intervention program.—

~~(7)(a) Notwithstanding any provision of this section, A person who is charged with a felony, other than a felony listed in s. 948.06(8)(c), and who is identified as a veteran or a servicemember, as defined in s. 394.47891(2)(d) or (c), respectively, and is otherwise qualified to participate in a veterans treatment court program under s. 394.47891 s. 1.01; a veteran who is discharged or released under any condition; a servicemember, as defined in s. 250.01; an individual who is a current or former United States Department of Defense contractor; or an individual who is a current or former military member of a foreign allied country, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem is eligible for voluntary admission into a veterans treatment court program pursuant to the requirements of s. 394.47891(4) and (8). pretrial veterans' treatment intervention program approved by the chief judge of the circuit, upon motion of either party or the court's own motion, except:~~

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

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

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

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

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

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

948.21 Condition of probation or community control; military service-members and veterans.—

(4) Effective for a probationer or community controllee whose crime is committed on or after July 1, 2021, who is a veteran or a servicemember as defined in s. 394.47891(2)(d) or (c), respectively, and who is otherwise qualified to participate in a veterans treatment court program under s. 394.47891, the court may, in addition to any other conditions imposed, impose a condition requiring the probationer or community controllee to participate in a treatment program capable of treating the probationer or community controllee's service-related mental illness, service-related traumatic brain injury, service-related substance abuse disorder, service-related psychological problem, or military sexual trauma as defined in s. 394.47891(2)(b).

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

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

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.