

CS/SB 604 – Mental Health Services in the Criminal Justice System (Identical CS/HB 439)

This bill amends and creates multiple statutes. It expands veterans court eligibility for military veterans and service members under s. 394.47891, F.S. to those who were discharged or released under a general discharge, so that those “who are 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 the veterans court is based on multiple factors, such as “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.” Participation in this program applies to those convicted of a felony other than a felony listed in s. 948.06(8)(c), F.S. Offenders participate in a pretrial intervention program that could lead to a dismissal of criminal charges.

This bill also creates s. 394.47892, F.S., allowing for the creation of mental health court programs, both pretrial intervention and postadjudicatory. Section 948.08(8), F.S. is amended to specify that pretrial intervention must be voluntary, the defendant must have a mental illness, not be convicted of a felony, and charged with a nonviolent felony that includes a third degree violation, or any felony that is not forcible. Resisting an officer with violence or battery on a law enforcement officer can also be included if the officer and state attorney consent. Furthermore, aggravated assault can be included if the victim and state attorney consent. Section 948.01(8), F.S. is also amended to specify postadjudicatory eligibility criteria that follows the same guidelines as pretrial intervention (i.e. nonviolent felony, with exceptions for violence/battery against law enforcement and aggravated assault). The postadjudicatory treatment must also be based on a mental health screening outcome, amenability to the services of the program, criminal history, total sentence points, recommendation of the state attorney and victim, and the defendant’s agreement to enter the program. Finally, s. 985.345(4), F.S. is amended to allow a delinquency pretrial mental health court program to be used for a child under the same eligibility rules as pretrial intervention for adults (i.e. nonviolent felony, with exceptions for violence/battery against law enforcement and aggravated assault).

Lastly, the bill amends s. 948.06(2)(j), F.S., authorizing the court to order an offender to a postadjudicatory mental health court program or veterans court program if the offender admits a violation of community control or probation due to a nonviolent felony with exceptions for violence/battery against law enforcement and aggravated assault, is amenable to the services, agrees to participate, and is otherwise qualified to participate.

There are several offender types which could affect prison beds with the implementation of these mental health programs, including veterans, adults, children, and technical

violators. With a few exceptions, all have to be charged with nonviolent felonies. However, due to multiple requirements for eligibility, including state attorney, offender, and victim discretion, as well as no strict guidelines for what constitutes a mental illness, it is unknown how many future admissions to prison would be affected by this law.

CONFERENCE ADOPTED ESTIMATE: Negative Indeterminate

Requested by: House