HOUSE DOCKET, NO. 2300 FILED ON: 2/18/2011

HOUSE . . . . . No. 3410

The Commonwealth of Massachusetts

PRESENTED BY:

Carolyn C. Dykema

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to support for veterans.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Carolyn C. Dykema	*8th Middlesex*
Jason M. Lewis	*31st Middlesex*
Dennis A. Rosa	*4th Worcester*
Frank I. Smizik	*15th Norfolk*
Jennifer E. Benson	*37th Middlesex*
Martin J. Walsh	*13th Suffolk*
George T. Ross	*2nd Bristol*
Kate Hogan	*3rd Middlesex*
James B. Eldridge	☐ *[District]* ☐
Karen E. Spilka	☐ *[District]* ☐
Denise Provost	*27th Middlesex*
Gloria L. Fox	*7th Suffolk*
Sarah K. Peake	*4th Barnstable*

HOUSE DOCKET, NO. 2300 FILED ON: 2/18/2011

HOUSE . . . . . No. 3410

By Ms. Dykema of Holliston, a petition (accompanied by bill, House, No. 3410) of Carolyn C. Dykema and others relative to a 14-day continuance by the court when dealing with veterans of the armed forces. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to support for veterans.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 276A of the General Laws is hereby amended by adding the following section:-

Section 10. The probation officers of a district, municipal or superior court, or their official designee, when gathering information in accordance with section 85 of chapter 276, shall, at or prior to arraignment of a defendant on a criminal complaint, make inquiry of the defendant as to whether he or she is a veteran or current servicemember of, or has a history of military service in, the armed forces of the United States. The probation officers or their official designee shall screen the defendant for the purpose of enabling the judge at arraignment to consider the eligibility of the defendant for diversion to a program, or treatment as part of disposition.

If the defendant is determined to be a veteran, or current servicemember, or has a history of military service in the armed forces of the United States and is eligible for diversion or treatment, he or she may, at arraignment, be afforded a 14-day continuance by the court for the purpose of seeking an assessment by the US Department of Veterans Affairs, the Massachusetts department of veterans' services or another state or federal agency with suitable knowledge and experience of veterans affairs to provide the court with treatment options available to the defendant, including diversion programs, if appropriate; provided, however, that if the defendant has demonstrated symptomatology suggestive of a mental illness, a written report shall be prepared by a qualified psychiatrist or clinical psychologist or physician, in consultation with said Department of Veterans Affairs or the department of veterans' services or another federal or state agency and said report shall be provided to the court to assist in sentencing or diversion. The court may consider the recommendations of any diagnosing or treating mental health professionals for the defendant for pre-trial diversion or the imposition of a sentence.

24 If a defendant chooses to accept the offer of a continuance for the purpose of such an
25 assessment, he or she shall so notify the judge at arraignment. Upon receipt of such notification,
26 the judge shall grant a 14-day continuance. The judge, through the probation office or its official
27 designee, shall direct the defendant to an assessment program and shall inform said program of
28 such action and require that the program provide the probation department and court with its
29 findings.

30 The judge may, in his or her discretion, grant a defendant who is preliminarily
31 determined not to be eligible for pre-trial diversion, a 14-day continuance for assessment. In
32 arriving at such a decision, the opinion of the prosecution should be taken into consideration.
33 Such a continuance may be granted upon the judge's own initiative or upon request by the
34 defendant.

35 SECTION 2. The administrative office of the trial court shall work with the department
36 of veterans services to adopt a training program to educate and assist court personnel, including
37 court staff, probation officers, their designees, court officers, prosecutors, defense counsel, and
38 judges in recognizing veterans issues and determining the appropriate treatment for veterans
39 within the court. All trial court employees who interact directly with defendants shall be required
40 to complete the training; and provided, further, that the administrative office of the trial court and
41 the department of veterans' services shall, in consultation with the US Department of Veterans

42 Affairs, provide at least one of the training sessions offered to court personnel at no
43 administrative cost to the commonwealth.

44 SECTION 3. The administrative office of the trial court shall, in consultation with the
45 US Department of Veterans Affairs and department of veterans' services, conduct a study to
46 examine the intake and review process and disposition, including treatment and diversion
47 options, of veterans who face criminal complaints in the courts. The study shall include specific
48 information including, but not limited to, the number of defendants who are veterans,
49 servicemembers or have a history of military service who enter the courts of the commonwealth
50 each year, the number who are eligible to enter treatment and diversion programs, the number
51 screened and assessed for the purpose of being placed in a program, the number that successfully
52 complete a program, the number that do not complete a program and the reason therefore, the
53 number that are diverted to a program and obtain a dismissal of their court proceedings, and the
54 number that enter and complete a program but reoffend and enter the criminal court system again
55 within one year of successful completion. A written report of the study's findings shall set forth
56 annual reporting requirements to be provided by the courts related to veterans in the criminal
57 justice system. Said report shall be provided by the chief justice of administration and
58 management to the department of veterans' services, the joint committee on veterans and federal
59 affairs and the joint committee on the judiciary by April 1, 2013. Reporting shall be provided
60 annually by the administrative office of the trial court to said department and said committees on
61 or before December 1, 2013 and each year thereafter.