

SENATE No. 2241

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to veterans' access, livelihood, opportunity, and resources.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide benefits to certain veterans and servicemembers, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1 SECTION 1. Section 61 of chapter 7 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by striking out the words “minority and women”, in lines 32
3 and 33, 37 and 64 and inserting in place thereof, in each instance, the following words:-
4 minority, women and veteran.

5 SECTION 2. Said section 61 of said chapter 7, as so appearing, is hereby further
6 amended by striking out subsection (h) and inserting in place thereof the following subsection:-

7 (h) SDO shall seek to encourage voluntary assistance programs by which nonminority,
8 non-women and non-veteran business employees are loaned to minority, women and veteran
9 businesses or by which minority, women and veteran business persons are taken into viable
10 business ventures to acquire training and experience in managing business affairs.

11 SECTION 3. Said section 61 of said chapter 7, as so appearing, is hereby further
12 amended by inserting after subsection (i) the following subsection:-

13 (i¹/₂) SDO shall conduct outreach to service-disabled veteran-owned small businesses
14 interested in and capable of providing construction and design services on public construction
15 and design projects to encourage and facilitate participation on public projects. For the purposes
16 of this subsection, “service-disabled veteran-owned small business” shall mean a business that is
17 verified by the federal government’s Department of Veterans Affairs pursuant to the Veterans
18 Benefits, Health Care, and Information Technology Act of 2006, Pub. L. 109-461, and
19 determined to be a service-disabled veteran-owned small business concern in accordance with 38
20 CFR Part 74 and Pub. L. 111-275.

21 SECTION 4. Section 35CC of chapter 10 of the General Laws, as so appearing, is
22 hereby amended by inserting, after the word “families”, in line 6, the following words:- ,
23 including immediate family members of certain active duty members of the armed forces who
24 were killed in action, so-called Gold Star Families,.

25 SECTION 5. Chapter 15A of the General Laws is hereby amended by adding the
26 following section:-

27 Section 42. (a) The council shall develop and adopt a written policy requiring each public
28 institution of higher education to develop a set of policies and procedures governing the
29 evaluation of a student’s military occupation or occupations, military training, coursework and
30 experience, to determine whether academic credit shall be awarded by the institution for the
31 evaluated occupation or occupations, experience, training and coursework. The council’s policy
32 may require that the occupation or occupations, training, experience or courses meet the

33 standards of the American Council on Education or equivalent standards for awarding academic
34 credit. The educational credit shall be awarded based upon each institution's admissions
35 standards and shall be consistent with the mission of the commonwealth's system of public
36 higher education, as defined by the council under section 1. Each public institution of higher
37 education shall designate a single point of contact for a student who is enrolled in such an
38 institution and who is also a veteran, as defined in clause Forty-third of section 7 of chapter 4 to
39 conduct such an evaluation and determination.

40 (b) The council shall consult with the chief executive officers of each public institution of
41 higher education in implementing the policy set forth in subsection (a) and the policy adopted by
42 the council shall, to the greatest extent possible, provide for consistent application by all the
43 commonwealth's public institutions of higher education and promote accurate and complete
44 academic counseling.

45 SECTION 6. The General Laws are hereby amended by inserting after chapter 15D the
46 following chapter:-

47 Chapter 15E

48 Interstate Compact on Educational Opportunity for Military Children

49 Section 1. As used in this chapter, the following words shall, unless the context clearly
50 requires otherwise, have the following meanings:-

51 "Active duty", full-time duty status in the active uniformed service of the United States,
52 including members of the National Guard and Reserve on active duty orders pursuant to 10
53 U.S.C. section 1209 and 1211.

54 “Children of military families”, a school-aged child, enrolled in kindergarten through
55 grade 12, in the household of an active duty member.

56 "Compact commissioner", the voting representative of each compacting state appointed
57 pursuant to section 7 of this compact.

58 “Deployment”, the period 1 month prior to the service members’ departure from the
59 members’ home station on military orders to 6 months after returning to the members’ home
60 station.

61 “Education records”, those official records, files and data directly related to a student and
62 maintained by the school or local education agency, including, but not limited to, records
63 encompassing all the material kept in the student's cumulative folder such as general identifying
64 data, records of attendance and of academic work completed, records of achievement and results
65 of evaluative tests, health data, disciplinary status, test protocols and individualized education
66 programs.

67 “Extracurricular activities”, a voluntary activity sponsored by the school or local
68 education agency or an organization sanctioned by the local education agency. Extracurricular
69 activities include, but are not limited to, preparation for and involvement in public performances,
70 contests, athletic competitions, demonstrations, displays and club activities.

71 “Interstate commission on educational opportunity for military children” or
72 “interstate commission”, the commission that is created under section 9 of this compact.

73 “Local education agency”, a public authority legally constituted by the state as an
74 administrative agency to provide control of and direction for kindergarten through grade 12
75 public educational institutions.

76 “Member state”, a state that has enacted this compact.

77 “Military installation”, a base, camp, post, station, yard, center, homeport facility
78 for any ship or other activity under the jurisdiction of the Department of Defense, including any
79 leased facility, which is located within any of the several states, the District of Columbia, the
80 commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the
81 Northern Marianas Islands and any other United States territory. Such term does not include any
82 facility used primarily for civil works, rivers and harbors projects or flood control projects.

83 “Non-member state”, a state that has not enacted this compact.

84 “Receiving state”, the state to which a child of a military family is sent, brought
85 or caused to be sent or brought.

86 “Rule”, a written statement by the interstate commission promulgated under
87 section 12 of this compact that is of general applicability, implements, interprets or prescribes a
88 policy or provision of the compact or an organizational, procedural or practice requirement of the
89 interstate commission and has the force and effect of statutory law in a member state, and
90 includes the amendment, repeal or suspension of an existing rule.

91 “Sending state”, the state from which a child of a military family is sent, brought
92 or caused to be sent or brought.

93 “State”, a state of the United States, the District of Columbia, the commonwealth
94 of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern
95 Marianas Islands and any other United States territory.

96 “Student”, the child of a military family for whom the local education agency
97 receives public funding and who is formally enrolled in kindergarten through grade 12.

98 “Transition”, the formal and physical process of transferring from school to
99 school or the period of time in which a student moves from one school in the sending state to
100 another school in the receiving state.

101 “Uniformed services”, the Army, Navy, Air Force, Marine Corps, Coast Guard,
102 including the Commissioned Corps of the National Oceanic and Atmospheric Administration,
103 and Public Health Services.

104 “Veteran”, a person who served in the uniformed services and who was
105 discharged or released from service under conditions other than dishonorable.

106 Section 2. (a) Except as otherwise provided in subsection (b), this compact shall
107 apply to the children of:

108 (1) active duty members of the uniformed services;

109 (2) members or veterans of the uniformed services who are severely
110 injured and medically discharged or retired for a period of 1 year after medical discharge or
111 retirement; and

112 (3) members of the uniformed services who die on active duty or as a
113 result of injuries sustained on active duty for a period of 1 year after death.

114 (b) This interstate compact shall only apply to local education agencies.

115 (c) This compact shall not apply to the children of:

116 (1) inactive members of the national guard and military reserves;

117 (2) members of the uniformed services now retired, except as provided in
118 subsection (a);

119 (3) veterans of the uniformed services, except as provided in subsection
120 (a); and

121 (4) other United States Department of Defense personnel and other federal
122 agency civilian and contract employees not defined as active duty members of the uniformed
123 services.

124 Section 3. (a) If official education records cannot be released to the parents for the
125 purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to
126 the parent a complete set of unofficial education records containing uniform information as
127 determined by the interstate commission. Upon receipt of the unofficial education records by a
128 school in the receiving state, the school shall enroll and appropriately place the student based on
129 the information provided in the unofficial records, pending validation by the official records, as
130 soon as possible.

131 (b) Simultaneous with the enrollment and conditional placement of the student,
132 the school in the receiving state shall request the student's official education records from the
133 school in the sending state. Upon receipt of this request, the school in the sending state shall
134 process and furnish the official education records to the school in the receiving state within 10

135 days or within the time as is reasonably determined under the rules promulgated by the interstate
136 commission.

137 (c) Compacting states shall give 30 days from the date of enrollment or within the
138 time as is reasonably determined under the rules promulgated by the interstate commission for
139 students to obtain any immunizations required by the receiving state. For a series of
140 immunizations, initial vaccinations shall be obtained within 30 days or within the time as is
141 reasonably determined under the rules promulgated by the interstate commission.

142 (d) Students shall be allowed to continue enrollment at the grade level in the
143 receiving state that is equal with the grade level from the local education agency in the sending
144 state at the time of transition, regardless of age. A student that has satisfactorily completed the
145 prerequisite grade level in the local education agency in the sending state shall be eligible for
146 enrollment in the next highest grade level in the receiving state, regardless of age. A student
147 transferring after the start of the school year in the receiving state shall enter the school in the
148 receiving state at the level validated by an accredited school in the sending state.

149 Section 4. (a) When a student transfers before or during the school year, the
150 receiving state school shall initially honor placement of the student in educational courses based
151 on the student's enrollment in the sending state school or educational assessments conducted at
152 the school in the sending state if the courses are offered and space is available. Course placement
153 shall include, but not be limited to, honors, international baccalaureate, advanced placement,
154 vocational, technical and career pathways courses. Continuing the student's academic program
155 from the previous school and promoting placement in academically and career challenging
156 courses should be paramount when considering placement. This shall not preclude the school in

157 the receiving state from performing subsequent evaluations to ensure appropriate placement and
158 continued enrollment of the student in the courses.

159 (b) The receiving state school shall initially honor placement of the student in
160 educational programs based on current educational assessments conducted at the school in the
161 sending state or participation or placement in like programs in the sending state. Such programs
162 shall include, but not be limited to: (i) gifted and talented programs; and (ii) English as a second
163 language programs. This shall not preclude the school in the receiving state from performing
164 subsequent evaluations to ensure appropriate placement of the student.

165 (c) In compliance with the federal requirements of the Individuals with
166 Disabilities Education Act (IDEA), 20 U.S.C.A. section 1400 et seq, the receiving state shall
167 initially provide comparable services to a student with disabilities based on the student's: (i)
168 current individualized education program; (ii) in compliance with the requirements of section
169 504 of the Rehabilitation Act, 29 U.S.C.A. section 794; and (iii) in compliance with title II of the
170 Americans with Disabilities Act, 42 U.S.C.A. sections 12131-12165. The receiving state shall
171 make reasonable accommodations and modifications to address the needs of incoming students
172 with disabilities, subject to an existing 504 or title II plan, to provide the student with equal
173 access to education. This shall not preclude the school in the receiving state from performing
174 subsequent evaluations to ensure appropriate placement of the student.

175 (d) Local education agency administrative officials shall have flexibility in
176 waiving course or program prerequisites or other preconditions for placement in courses or
177 programs offered under the jurisdiction of the local education agency.

178 (e) A student whose parent or legal guardian is an active duty member of the
179 uniformed services and has been called to duty for, is on leave from or immediately returned
180 from deployment to a combat zone or combat support posting, may be granted additional
181 excused absences at the discretion of the local education agency superintendent to visit with that
182 parent or legal guardian on leave or preparing for or returning from deployment.

183 Section 5. (a) The following shall be required to be eligible for enrollment in the
184 receiving state's school:

185 (1) Special power of attorney, relative to the guardianship of a child of a
186 military family and executed under applicable law, shall be sufficient to enroll or take any other
187 action requiring parental participation and consent under this compact.

188 (2) A local education agency shall not charge local tuition to a
189 transitioning military child placed in the care of a non-custodial parent or other person standing
190 in loco parentis who lives in a jurisdiction other than that of the custodial parent.

191 (3) A transitioning military child placed in the care of a non-custodial
192 parent or other person standing in loco parentis who lives in a jurisdiction other than that of the
193 custodial parent, may continue to attend the school in which the child was enrolled while
194 residing with the custodial parent.

195 (b) State and local education agencies shall facilitate the opportunity for
196 transitioning military children's inclusion in extracurricular activities, regardless of application
197 deadlines, to the extent the children are otherwise qualified.

198 Section 6. To facilitate the on-time graduation of children of military families,
199 state and local education agencies shall incorporate the following procedures:

200 (a) Local education agency administrative officials shall waive specific courses
201 required for graduation if similar course work has been satisfactorily completed in another local
202 education agency or shall provide reasonable justification for denial. Should a waiver not be
203 granted to a student who would otherwise qualify to graduate from the sending school, the local
204 education agency shall provide an alternative means of acquiring required coursework so that
205 graduation may occur on time.

206 (b) Receiving states may accept exit or end-of-course exams required for
207 graduation from the sending state or national norm-referenced achievement tests or alternative
208 testing, in lieu of testing requirements for graduation in the receiving state; require the student to
209 take scheduled exit test in the receiving state, if the student is able to take the tests prior to the
210 end of grade 12; or accept evidence or information from the sending or receiving district that
211 demonstrates that the student has met the receiving state's graduation standard, either through a
212 transcript of courses taken and grades received from the sending and or receiving district; a
213 portfolio of work samples for the student that addresses the required high school standards;
214 standardized norm-referenced test results in the subject required by the receiving state for
215 graduation; or other relevant information.

216 (c) Should a military student transferring at the beginning or during grade 12 be
217 ineligible to graduate from the receiving local education agency after all alternatives in
218 subsection (b) have been considered, the sending and receiving local education agencies shall
219 ensure the receipt of a diploma from the sending local education agency if the student meets the

220 graduation requirements of the sending local education agency. In the event that either the
221 transferring or receiving state is not a member of this compact, the member state shall use best
222 efforts to facilitate the on-time graduation of the student under subsections (a) and (b).

223 Section 7. (a) Each member state shall, through the creation of a state council or
224 use of an existing body or board, provide for the coordination among its agencies of government,
225 local education agencies and military installations concerning the state's participation in and
226 compliance with this compact and interstate commission activities. While each member state
227 may determine the membership of its own state council, the membership shall include at least: (i)
228 the state secretary of education; (ii) a superintendent of a school district with a high
229 concentration of military children; (iii) a representative from a military installation; (iv) 1
230 representative from the legislature; (v) 1 representative from the executive branch; and (vi) other
231 offices and stakeholder groups that the state council deems appropriate. A member state that
232 does not have a school district deemed to contain a high concentration of military children may
233 appoint a superintendent from another school district to represent local education agencies on the
234 state council.

235 (b) The state council of each member state shall appoint or designate a military
236 family education liaison to assist military families and the state in facilitating the implementation
237 of this compact.

238 (c) The compact commissioner responsible for the administration and
239 management of the state's participation in the compact shall be appointed by the governor or as
240 otherwise determined by each member state.

241 (d) The compact commissioner and the military family education liaison
242 designated under this compact shall be ex-officio members of the state council, unless either is
243 already a full voting member of the state council.

244 Section 8. The compacting states hereby create the interstate commission on
245 educational opportunity for military children. The activities of the interstate commission are the
246 formation of public policy and are a discretionary state function. The interstate commission shall:

247 (a) be a body corporate and joint agency of the member states and shall have all
248 the responsibilities, powers and duties set forth in this compact and additional powers as may be
249 conferred upon it by a subsequent concurrent action of the respective legislatures of the member
250 states under the terms of this compact;

251 (b) consist of 1 interstate commission voting representative from each member
252 state who shall be that state's compact commissioner;

253 (c) entitle each member state represented at a meeting of the interstate
254 commission to 1 vote;

255 (d) require a majority of the total member states to constitute a quorum for the
256 transaction of business, unless a larger quorum is required by the by-laws of the interstate
257 commission;

258 (e) prohibit the delegation of a vote from 1 member state to another member state,
259 provided, that in the event the compact commissioner is unable to attend a meeting of the
260 interstate commission, the governor or state council may delegate voting authority to another
261 person from their state for a specified meeting;

262 (f) allow the by-laws to provide for meetings of the interstate commission to be
263 conducted by telecommunication or electronic communication;

264 (g) consist of ex-officio, non-voting representatives who are members of
265 interested organizations, as defined in the by-laws, which may include, but shall not be limited
266 to, members of the representative organizations of military family advocates, local education
267 agency officials, parent and teacher groups, the United States Department of Defense, the
268 Education Commission of the States, the Interstate Agreement on the Qualification of
269 Educational Personnel and other interstate compacts affecting the education of children of
270 military members;

271 (h) meet at least once each calendar year, provided, that the chairperson may call
272 additional meetings and upon the request of a simple majority of the member states, shall call
273 additional meetings;

274 (i) establish an executive committee, whose members shall include the officers of
275 the interstate commission and such other members of the interstate commission as determined by
276 the by-laws; provided, that members of the executive committee shall serve a 1-year term and
277 shall be entitled to 1 vote each; provided further, that the executive committee shall have the
278 power to act on behalf of the interstate commission, with the exception of rulemaking during
279 periods when the interstate commission is not in session; provided further, that the executive
280 committee shall oversee the day-to-day activities of the administration of the compact including
281 enforcement and compliance with the compact, its by-laws and rules and other such duties as
282 deemed necessary ; and provided further that the United States Department of Defense shall
283 serve as an ex-officio, non-voting member of the executive committee;

284 (j) establish by-laws and rules that provide for conditions and procedures under
285 which the interstate commission shall make its information and official records available to the
286 public for inspection or copying; provided, that the interstate commission may exempt from
287 disclosure the information or the official records that would adversely affect personal privacy
288 rights or proprietary interests;

289 (k) give public notice of all meetings and all meetings shall be open to the public,
290 except as set forth in the rules or as otherwise provided in the compact; provided, that the
291 interstate commission and its committees may close a meeting, or a portion of a meeting, when
292 the commission or committee determines by a two-thirds vote that an open meeting would likely:

293 (1) relate solely to the interstate commission's internal personnel practices
294 and procedures;

295 (2) disclose matters specifically exempted from disclosure by federal and
296 state statute;

297 (3) disclose trade secrets or commercial or financial information which is
298 privileged or confidential;

299 (4) involve accusing a person of a crime or formally censuring a person;

300 (5) disclose information of a personal nature where disclosure would
301 constitute an unwarranted invasion of personal privacy;

302 (6) disclose investigative records compiled for law enforcement purposes;

303 or

304 (7) relate specifically to the interstate commission's participation in a civil
305 action or other legal proceeding;

306 (l) cause its legal counsel or designee to certify that a meeting may be closed and
307 shall reference each relevant exemptible provision for any meeting or portion of a meeting which
308 is closed under this clause; provided, that the interstate commission shall keep minutes which
309 shall clearly describe all matters discussed in a meeting and shall provide an accurate summary
310 of actions taken and the reasons for those actions, including a description of the views expressed
311 and the record of a roll call vote; provided further, that all documents considered in connection
312 with an action shall be identified in the minutes; and provided further, that all minutes and
313 documents of a closed meeting shall remain under seal, subject to release by a majority vote of
314 the interstate commission;

315 (m) collect standardized data concerning the educational transition of the children
316 of military families under this compact, as directed through its rules which shall specify the data
317 to be collected, the means of collection and data exchange and reporting requirements; provided,
318 that such methods of data collection, exchange and reporting shall, as much as reasonably
319 possible, conform to current technology and coordinate its information functions with the
320 appropriate custodian of records as identified in the by-laws and rules;

321 (n) create a process that permits military officials, education officials and parents
322 to inform the interstate commission of alleged violations of the compact, its rules or when issues
323 subject to the jurisdiction of the compact or its rules are not addressed by the state or local
324 education agency; provided, that this section shall not be construed to create a private right of
325 action against the interstate commission or any member state.

326 Section 9. The interstate commission may:

327 (a) provide for dispute resolution among member states;

328 (b) issue, upon request of a member state, advisory opinions concerning the
329 meaning or interpretation of the interstate compact, its by-laws, rules and actions;

330 (c) enforce compliance with the compact provisions and the rules promulgated by
331 the interstate commission and in the by-laws through the use of all necessary and proper means,
332 including, but not limited to, the use of the judicial process;

333 (d) establish and maintain offices, which shall be located within 1 or more of the
334 member states;

335 (e) purchase and maintain insurance and bonds;

336 (f) borrow, accept, hire or contract for services or personnel;

337 (g) establish and appoint committees including, but not limited to, an executive
338 committee as required by paragraph 9 of subsection (a) of section 8;

339 (h) elect or appoint officers, attorneys, employees, agents or consultants and fix
340 the compensation, define the duties and determine the qualifications for those positions;

341 (i) establish the interstate commission's personnel, policies and programs relating
342 to conflicts of interest, rates of compensation and qualifications of personnel;

343 (j) accept any and all donations and grants of money, equipment, supplies,
344 materials and services and to receive, utilize and dispose of it;

345 (k) lease, purchase, own, hold, improve, use or accept contributions of or
346 donations of any property, real, personal or mixed;

347 (l) sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose
348 of any property, real, personal or mixed;

349 (m) establish a budget and make expenditures;

350 (n) adopt a seal and by-laws governing the management and operation of the
351 interstate commission;

352 (o) report annually to the legislatures, governors, judiciary and state councils of
353 the member states concerning the activities of the interstate commission during the preceding
354 year and the reports shall include recommendations that may have been adopted by the interstate
355 commission;

356 (p) coordinate education, training and public awareness regarding this compact
357 and its implementation and operation for officials and parents or guardians impacted by this
358 compact;

359 (q) establish uniform standards for the reporting, collecting and exchanging of
360 data;

361 (r) maintain corporate books and records in accordance with the by-laws;

362 (s) perform the functions necessary or appropriate to achieve the purposes of this
363 compact; and

364 (t) provide for the uniform collection and sharing of information between and
365 among member states, schools and military families under this compact.

366 Section 10. (a) The interstate commission shall, by a majority vote of the
367 members present and voting and within 12 months after the first interstate commission meeting,
368 adopt by-laws to govern the conduct that is necessary or appropriate to carry out the purposes of
369 this compact, which shall include, but not be limited to:

370 (1) establishing the fiscal year of the interstate commission;

371 (2) establishing an executive committee and other committees as may be
372 necessary;

373 (3) providing for the establishment of committees and for governing any
374 general or specific delegation of authority or function of the interstate commission;

375 (4) providing reasonable procedures for calling and conducting meetings
376 of the interstate commission and ensuring reasonable notice of each meeting;

377 (5) establishing the titles and responsibilities of the officers and staff of the
378 interstate commission;

379 (6) providing a mechanism for concluding the operations of the interstate
380 commission and the return of surplus funds that may exist upon the termination of this compact
381 after the payment and reserving of all of its debts and obligations; and

382 (7) providing start-up rules for initial administration of the compact.

383 (b) The interstate commission shall, by a majority of the members, elect annually
384 from among its members a chairperson, a vice-chairperson and a treasurer, each of whom shall
385 have the authority and duties specified in the by-laws. The chairperson or, in the chairperson's
386 absence or disability, the vice-chairperson, shall preside at all meetings of the interstate
387 commission. The elected officers shall serve without compensation or remuneration from the
388 interstate commission; provided, that subject to the availability of budgeted funds, the officers
389 shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the
390 performance of their responsibilities as officers of the interstate commission.

391 (c) The executive committee shall have such authority and duties as may be set
392 forth in the by-laws, including, but not limited to: (i) managing the affairs of the interstate
393 commission in a manner consistent with the by-laws and purposes of the interstate commission;
394 (ii) overseeing an organizational structure within the interstate commission and establishing
395 appropriate procedures for the interstate commission to provide for the creation of rules,
396 operating procedures and administrative and technical support functions; and (iii) planning,
397 implementing and coordinating communications and activities with other state, federal and local
398 government organizations in order to advance the goals of the interstate commission.

399 (d) The executive committee may, subject to the approval of the interstate
400 commission, appoint or retain an executive director for a period, during which the terms,
401 conditions and compensation shall be set by the interstate commission. The executive director
402 shall serve as secretary to the interstate commission, but shall not be a member of the interstate
403 commission. The executive director shall hire and supervise other personnel when authorized by
404 the interstate commission.

405 (e) The interstate commission's executive director and employees shall be
406 immune from suit and liability, either personally or in their official capacity, for a claim for
407 damage to or loss of property, personal injury or other civil liability caused by, arising out of or
408 relating to an actual or alleged act, error or omission that occurred, or that the person had a
409 reasonable basis for believing occurred, within the scope of interstate commission employment,
410 duties or responsibilities; provided, that the interstate commission's executive director and
411 employees shall not be protected from suit or liability for damage, loss, injury or liability caused
412 by the intentional or willful and wanton misconduct of such person.

413 (f) The liability of the interstate commission's executive director, employees or
414 representatives for acts, errors or omissions that occur while acting within the scope of
415 employment and within the person's state may not exceed the limits of liability set forth under
416 the constitution and laws of that state for state officials, employees and agents. The interstate
417 commission is considered to be an instrumentality of the states for the purposes of any such
418 action. Nothing in this subsection shall be construed to protect the person from suit or liability
419 for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of
420 such person.

421 (g) The interstate commission shall defend the executive director and its
422 employees and, subject to the approval of the attorney general or other appropriate legal counsel
423 of the member state represented by an interstate commission, shall defend interstate commission
424 representatives in any civil action seeking to impose liability arising out of an actual or alleged
425 act, error or omission that occurred within the scope of interstate commission employment,
426 duties or responsibilities, or that the defendant had a reasonable basis for believing occurred
427 within the scope of interstate commission employment, duties or responsibilities; provided,

428 however, that the actual or alleged act error or omission did not result from intentional or willful
429 and wanton misconduct on the part of such person.

430 (h) To the extent that representatives and employees of the interstate commission
431 are not covered by the state involved, the member state or the interstate commission, that
432 representative or employee shall be held harmless in the amount of a settlement or judgment,
433 including attorney's fees and costs, obtained against such persons arising out of an actual or
434 alleged act, error or omission that occurred within the scope of interstate commission
435 employment, duties or responsibilities, or that such persons had a reasonable basis for believing
436 occurred within the scope of interstate commission employment, duties or responsibilities;
437 provided, however, that the actual or alleged act, error, or omission did not result from
438 intentional or willful and wanton misconduct on the part of such persons.

439 Section 11. (a) The interstate commission shall promulgate reasonable rules in
440 order to effectively achieve the purposes of this compact. In the event the interstate commission
441 exercises its rulemaking authority in a manner that is beyond the scope or the powers granted in
442 this act, then that action by the interstate commission shall be invalid and have no force or effect.

443 (b) Rules shall be made pursuant to a rulemaking process that shall substantially,
444 or as much as possible, conform with the Model State Administrative Procedure Act of 1981,
445 uniform laws annotated, vol. 15, p.1 (2000) as amended.

446 (c) Not later than 30 days after a rule is promulgated, any person may file a
447 petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or
448 otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a
449 substantial likelihood of success. The court shall give deference to the actions of the interstate

450 commission consistent with applicable law and shall not find the rule to be unlawful if the rule
451 represents a reasonable exercise of the interstate commission's authority.

452 (d) If a majority of the legislatures of the compacting states reject a rule by
453 enactment of a statute or resolution, then such rule shall have no further force and effect in any
454 compacting state.

455 Section 12. (a) All courts shall take judicial notice of the compact and the rules in
456 any judicial or administrative proceeding in a member state pertaining to the subject matter of
457 this compact which may affect the powers, responsibilities or actions of the interstate
458 commission.

459 (b) The interstate commission shall be entitled to receive all service of process in
460 any such proceeding and shall have standing to intervene in the proceeding for all purposes.
461 Failure to provide service of process to the interstate commission shall render a judgment or
462 order void as to the interstate commission, this compact or promulgated rules.

463 (c) If the interstate commission determines that a member state has defaulted in
464 the performance of its obligations or responsibilities under this compact, the by-laws or the
465 promulgated rules, the interstate commission shall:

466 (1) provide written notice to the defaulting state and other member states,
467 of the nature of the default, the means of curing the default and any action taken by the interstate
468 commission; provided, that the interstate commission shall specify the conditions by which the
469 defaulting state must cure its default;

470 (2) provide remedial training and specific technical assistance regarding
471 the default; and

472 (3) terminate a defaulting state from the compact if the defaulting state
473 fails to cure the default and upon an affirmative vote of a majority of the member states, all
474 rights, privileges and benefits conferred by this compact shall be terminated from the effective
475 date of termination; provided that a cure of the default shall not relieve the offending state of
476 obligations or liabilities incurred during the period of the default.

477 (d) Suspension or termination of membership in this compact shall be imposed
478 only after all other means of securing compliance have been exhausted. Notice of intent to
479 suspend or terminate shall be given by the interstate commission to the governor and the
480 majority and minority leaders of the defaulting state's legislature and each of the member states.

481 (e) The state which has been suspended or terminated shall be responsible for all
482 assessments, obligations and liabilities incurred through the effective date of suspension or
483 termination including obligations that require performance beyond the effective date of
484 suspension or termination.

485 (f) The interstate commission shall not bear any costs relating to any state that has
486 been found to be in default or which has been suspended or terminated from the compact, unless
487 otherwise mutually agreed upon in writing between the interstate commission and the defaulting
488 state.

489 (g) The interstate commission shall attempt, upon the request of a member state,
490 to resolve disputes which are subject to the compact and which may arise among member states

491 and between member and non-member states. The interstate commission shall promulgate a rule
492 providing for both mediation and binding dispute resolution for disputes as appropriate.

493 (h) The interstate commission, in the reasonable exercise of its discretion, shall
494 enforce this compact.

495 (i) The remedies in this section shall not be the exclusive remedies of the
496 interstate commission. The interstate commission may avail itself of any other remedies
497 available under state law or the regulation of a profession.

498 Section 13. (a) The interstate commission shall pay, or provide for the payment
499 of, the reasonable expenses of its establishment, organization and ongoing activities.

500 (b) The interstate commission may levy on and collect an annual assessment from
501 each member state to cover the cost of the operations and activities of the interstate commission
502 and its staff which must be in a total amount sufficient to cover the interstate commission's
503 annual budget as approved each year. The aggregate annual assessment amount shall be allocated
504 based upon a formula determined by the interstate commission, which shall promulgate a rule
505 that is binding upon all member states.

506 (c) The interstate commission shall not incur obligations of any kind prior to
507 securing the funds adequate to meet that obligation; nor shall the interstate commission pledge
508 the credit of any of the member states, except by and with the authority of the member state.

509 (d) The interstate commission shall keep accurate accounts of all receipts and
510 disbursements. The receipts and disbursements of the interstate commission shall be subject to
511 the audit and accounting procedures established under its by-laws. All receipts and

512 disbursements of funds handled by the interstate commission shall be audited yearly by a
513 certified or licensed public accountant and the report of the audit shall be included in and become
514 part of the annual report of the interstate commission.

515 Section 14. (a) Any state shall be eligible to become a member state.

516 (b) The compact shall become effective and binding upon legislative enactment of
517 the compact into law by no less than 10 states. The effective date shall be no earlier than
518 December 1, 2007. Thereafter it shall become effective and binding as to any other member state
519 upon enactment of the compact into law by that state. The governors of non-member states or the
520 designees of non-member states shall be invited to participate in the activities of the interstate
521 commission on a non-voting basis prior to adoption of the compact by all states.

522 (c) The interstate commission may propose amendments to the compact for
523 enactment by the member states. No amendment shall become effective and binding upon the
524 interstate commission and the member states unless it is enacted into law by unanimous consent
525 of the member states.

526 Section 15. (a) Once effective, the compact shall continue in force and remain
527 binding upon each and every member state; provided that a member state may withdraw from the
528 compact by specifically repealing the statute that enacted the compact into law.

529 (b) Withdrawal from this compact shall be by the enactment of a statute repealing
530 this compact, but shall not take effect until 1 year after the effective date of such statute.

531 (c) The withdrawing state shall immediately notify the chairperson of the
532 interstate commission in writing upon the introduction of legislation repealing this compact in

533 the withdrawing state. The interstate commission shall notify the other member states of the
534 withdrawing state's intent to withdraw within 60 days of receiving notice.

535 (d) The withdrawing state shall be responsible for all assessments, obligations and
536 liabilities incurred through the effective date of withdrawal, including the performance of
537 obligations which extend beyond the effective date of the withdrawal.

538 (e) Reinstatement following withdrawal of a member state shall occur upon the
539 withdrawing state reenacting the compact or upon such later date as determined by the interstate
540 commission.

541 Section 16. (a) This compact shall dissolve effective upon the date of the
542 withdrawal or default of the member state which reduces the membership in the compact to 1
543 member state.

544 (b) Upon the dissolution of this compact, the compact shall become null and void
545 and shall be of no further force or effect. The business and affairs of the interstate commission
546 shall be concluded and surplus funds shall be distributed in accordance with the by-laws.

547 Section 17. (a) This compact shall be severable and if any phrase, clause, sentence
548 or provision is deemed unenforceable, the remaining provisions of the compact shall be
549 enforceable.

550 (b) This compact shall be liberally construed to effectuate its purposes.

551 (c) Nothing in this compact shall be construed to prohibit the applicability of
552 other interstate compacts to which the states are members.

553 Section 18. (a) Nothing in this compact shall prevent the enforcement of any other
554 law of a member state that is not inconsistent with this compact.

555 (b) All member states' laws conflicting with this compact are superseded to the
556 extent of the conflict.

557 Section 19. (a) All lawful actions of the interstate commission, including all rules
558 and by-laws promulgated by the interstate commission, shall be binding upon the member states.

559 (b) All agreements between the interstate commission and the member states shall
560 be binding in accordance with the terms of the agreement.

561 (c) In the event any provision of this compact exceeds the constitutional limits
562 imposed on the legislature of any member state, such provision shall be ineffective to the extent
563 of the conflict with the constitutional provision of that member state.

564 SECTION 7. The third paragraph of section 26 of chapter 31 of the General Laws, as
565 appearing in the 2010 Official Edition, is hereby amended by adding the following sentence:- No
566 appointing authority shall request military medical records for the purpose of employment other
567 than that which is required by the administrator.

568 SECTION 8. Clause twenty-second D of section 5 of chapter 59 of the General Laws, as
569 so appearing, is hereby amended by striking out, in lines 765 to 767, inclusive, the words “;
570 provided, however, that in no case shall the abatement amount exceed the sum of \$2,500 in any
571 fiscal year following the fifth fiscal year of receipt of the abatement”.

572 SECTION 9. Section 2 of chapter 115 of the General Laws, as so appearing, is hereby
573 amended by inserting after the word “commissioner”, in line 1,,the following words:- shall be a
574 veteran, as defined in clause Forty-third of section 7 of chapter 4 and.

575 SECTION 10. Section 71C of chapter 143 of the General Laws, as so appearing, is
576 hereby amended by inserting after the word “licensee”, in line 45, the following words:- ;
577 provided, however, that if the licensee is on active duty with the armed forces of the United
578 States, the license shall remain valid until the licensee is released from active duty and for a
579 period of not less than 90 days following that release.

580 SECTION 11. Section 62 of chapter 146 of the General Laws, as so appearing, is hereby
581 amended by inserting after the word “certificate”, in line 26, the following words:- ; provided,
582 however, that if the holder of a certificate of competency is on active duty with the armed forces
583 of the United States, the certificate shall remain valid until the holder is released from active duty
584 and for a period of not less than 90 days following that release.

585 SECTION 12. Section 67 of said chapter 146, as so appearing, is hereby amended by
586 inserting, after the word “licensee”, in line 21, the following words:- ; provided, however, that
587 if the licensee is on active duty with the armed forces of the United States, the license shall
588 remain valid until the licensee is released from active duty and for a period of not less than 90
589 days following that release.

590 SECTION 13. Section 85 of said chapter 146,, as so appearing, is hereby amended by
591 inserting after the word “licensee”, in line 33, the following words:- ; provided, however, that if
592 the licensee is on active duty with the armed forces of the United States, the license shall remain

593 valid until the licensee is released from active duty and for a period of not less than 90 days
594 following that release.

595 SECTION 14. Chapter 276A of the General Laws is hereby amended by adding the
596 following 2 sections:-

597 Section 10. A probation officer of a district court, in Boston, the municipal court of the
598 city of Boston or the officer's official designee, when gathering information in accordance with
599 section 85 of chapter 276, shall, at or prior to arraignment of a defendant on a criminal
600 complaint, use best efforts to confirm the defendant's status as a veteran, as defined in clause
601 Forty-third of section 7 of chapter 4, a person on active service in the armed forces of the United
602 States, as defined in said clause Forty-third of said section 7 of said chapter 4 or a person with a
603 history of military service in the armed forces of the United States.

604 The district courts, and in Boston, the municipal court of the city of Boston, shall have
605 jurisdiction to divert to a program any person who is a veteran, as defined in said clause Forty-
606 third, on active service in the armed forces of the United States, as defined in said clause Forty-
607 third of said section 7 of said chapter 4, or who has history of military service in the armed forces
608 of the United States who is charged with an offense or offenses against the commonwealth for
609 which a term of imprisonment may be imposed, regardless of age, who has not previously been
610 convicted of a violation of any law of the commonwealth or of any other state or of the United
611 States in any criminal court proceeding after having reached the age of 18 years, except for
612 traffic violations for which no term of imprisonment may have been imposed, who does not have
613 any outstanding warrants, continuances, appeals or criminal cases pending before any courts of
614 the commonwealth or any other state or of the United States and who has received a

615 recommendation from a program that such person would, in light of the capacities of and
616 guidelines governing it, benefit from participation in said program.

617 Section 11. A defendant who is determined to be a veteran, on active service or
618 has a history of military service in the armed forces of the United States and who is eligible for
619 diversion or treatment under section 10 may, at arraignment, be afforded a 14-day continuance
620 by the court to seek an assessment by the United States Department of Veterans Affairs, the
621 department of veterans' services or another state or federal agency with suitable knowledge and
622 experience of veterans affairs to provide the court with treatment options available to the
623 defendant, including diversion programs, if appropriate. If the defendant has demonstrated
624 symptomatology suggestive of a mental illness, a qualified psychiatrist, clinical psychologist or
625 physician shall, in consultation with the United States Department of Veterans Affairs, the
626 department of veterans' services or another federal or state agency, provide a written report to
627 the court to assist in sentencing or diversion. The court may consider the recommendations of any
628 diagnosing or treating licensed mental health professional for the defendant for pre-trial
629 diversion or the imposition of a sentence. Prior to offering a continuance, the court shall inquire
630 into the circumstances of the charge.

631 If the court offers a 14-day continuance to seek an assessment and a defendant chooses to
632 accept the offer of a continuance, the defendant shall so notify the court at arraignment. Upon
633 receipt of such notification, the judge may grant a 14-day continuance. The court, through the
634 probation office or the officer's official designee, shall direct the defendant to an assessment
635 program, shall inform the program of the action and shall require that the program provide the
636 probation department and court with its findings. A court may grant a defendant who is
637 preliminarily determined not to be eligible for pre-trial diversion a 14-day continuance for

638 assessment. The court shall consider the opinion of the commonwealth on the merits of granting
639 or denying the continuance. A court may grant a continuance sua sponte or upon motion by the
640 defendant.

641 SECTION 15. The executive office of health and human services, in consultation
642 with the executive office for administration and finance, department of veterans' services, the
643 Soldiers' Home in Massachusetts and the Soldiers' Home in Holyoke shall conduct a fiscal and
644 operational analysis of the impact of designating a non-profit entity as a state soldiers home. The
645 analysis shall examine the availability of federal, state or private funds to support the
646 construction and operation of additional soldiers' homes by the designated non-profit entity,
647 including unused federal per diems under current United States Department of Veterans Affairs
648 apportionment guidelines, provide a 5-year and 10-year master plan for capital facility
649 improvements and expansion and estimate long-term costs that may be incurred by the
650 commonwealth for the construction and ongoing maintenance of such a home. The executive
651 office of health and human services shall submit a copy of the analysis to the clerks of the house
652 of representatives and senate who shall forward copies of the analysis to the house and senate
653 committees on ways and means and the joint committee on veterans and federal affairs by
654 December 1, 2012.

655 SECTION 16. There shall be a special commission to study and make recommendations
656 under chapters 13 and 115 of the General Laws and titles 108 and 230 of the Code of
657 Massachusetts Regulations, relative to the training and the certification, professional licensure or
658 accreditation of veterans' benefits and services officers.

659 The commission shall consist of 6 members: the house and senate chairs of the
660 joint committee on veterans and federal affairs or their designees, who shall serve as co-chairs;
661 the secretary of veterans' services or a designee; the undersecretary of the office of consumer
662 affairs and business regulation or a designee; the president of the Massachusetts Veterans'
663 Service Officers Association or a designee; and the executive director of the Massachusetts
664 Municipal Association or a designee.

665 The commission shall: (i) review and analyze processes and procedures of the
666 department of veterans' services relative to the training or certification of veterans' benefits and
667 services officers; (ii) review and analyze processes and procedures of the United States
668 Department of Veterans Affairs relative to the training and accreditation of representatives of
669 veterans and military service organizations; (iii) review and analyze processes and procedures for
670 the establishment of professional licensure for veterans' benefits and services officers within the
671 commonwealth; (iv) review and analyze the employment processes and procedures of cities and
672 towns, veterans' services districts and the county of Dukes County with respect to veterans'
673 benefits and services officers; (v) analyze and project costs associated with each of these items;
674 and (vi) compile and issue a report of the study with recommendations for legislation relative to
675 the training and the certification, professional licensure or accreditation of veterans' benefits and
676 services officers.

677 The commission shall convene its first official meeting not later than August 1,
678 2012. The commission shall submit a copy of the study with recommendations for legislation to
679 the clerks of the house of representatives and senate who shall forward copies of the study to the
680 house and senate committees on ways and means and the joint committee on veterans and federal
681 affairs by December 1, 2012.

682 As used in this section, the term “veterans’ benefits and services officers” shall
683 include: (i) full-time and part-time veterans’ agents under chapter 115 of the General Laws,
684 chapter 471 of the acts of 1972, chapter 68 of the acts of 1984 and title 108 of the Code of
685 Massachusetts Regulations; (ii) full-time directors of veterans’ services districts and full-time
686 and part-time deputy directors or assistant directors of veterans’ services districts under said
687 chapter 115 of the General Laws, said chapter 471 of the acts of 1972, said chapter 68 of the acts
688 of 1984 and title 108 of the Code of Massachusetts Regulations; (iii) county veterans’ agents
689 under chapter 128 of the acts of 1982; and (iv) the veterans’ benefits and services commissioner
690 in and for the city of Boston under said chapter 115 of the General Laws.

691 SECTION 17. The court administrator shall, in consultation with the department
692 of veterans services, conduct a study and make recommendations relative to the adoption of a
693 court training program to educate and assist court personnel, including court staff, probation
694 officers and their designees, court officers, prosecutors, defense counsel and judges in
695 recognizing veterans issues and determining the appropriate treatment for veterans within the
696 court. The administrative office of the trial court shall file a report with recommendations for a
697 court training program to the joint committee on the judiciary, the joint committee on veterans
698 and federal affairs and the house and senate committees on ways and means by June 1, 2013.

699 SECTION 18. The court administrator shall consult with the United States
700 Department of Veterans Affairs and the department of veterans’ services, to conduct a study to
701 examine the intake and review process and disposition, including treatment and diversion
702 options, of veterans, persons on active service in the armed forces of the United States and
703 persons with a history of military service in the armed forces of the United States who face
704 criminal complaints in the courts. The study shall include specific information including, but not

705 limited to, the number of defendants who are veterans, servicemembers or have a history of
706 military service who enter the courts of the commonwealth each year, the number who are
707 eligible to enter treatment and diversion programs, the number screened and assessed for
708 placement in a program, the number that successfully complete a program, the number that do
709 not complete a program and the reason for such incompleteness, the number that are diverted to a
710 program and obtain a dismissal of their court proceedings and the number that enter and
711 complete a program but reoffend and enter the criminal court system again within 1 year of
712 successful completion. The study shall provide recommendations for annual reporting
713 requirements to be provided by the administrative office of the trial court related to veterans in
714 the criminal justice system. The report shall be provided by the court administrator to the
715 department of veterans' services, the joint committee on veterans and federal affairs and the joint
716 committee on the judiciary not later than April 1, 2013. Reporting shall be provided annually by
717 the court administrator to the department and the committees on or before December 1 of each
718 year thereafter.

719 SECTION 19. The council shall adopt all necessary rules, regulations and procedures to
720 implement section 42 of chapter 15A of the General Laws not later than March 1, 2013.