

HOUSE No. 4295

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act for the Home of the Brave..

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.

2 Notwithstanding any general or special law to the contrary, the Commonwealth of
3 Massachusetts shall recognize the board of trustees of the Home of the Brave, Inc. a 5.01(c)(3)
4 non-profit corporation may construct and operate public homes for veterans. Such homes shall
5 be considered “State Homes”. The construction, purchase, and operation shall be funded from
6 available federal and state funds and private funds. The primary purpose of such Homes is to
7 provide support and care for honorably discharged veterans who served in the Armed Forces of
8 the United States for no less than 180 days.

9 SECTION 2.

10 The corporation shall have, but not be limited to the following powers:-

11 Make and execute contracts and all other instruments necessary or convenient for the
12 exercise of its powers and functions under this chapter.

13 Acquire, in the name of the home, real or personal property of any interest therein,
14 including rights or easements, on either a temporary or long-term basis by gift, purchase,
15 transfer, foreclosure, lease or otherwise.

16 Hold, sell, assign, lease, rent, encumber, mortgage or otherwise dispose of any real or
17 personal property, or any interest therein, or mortgage interest owned by it or in its control,
18 custody or possession and release or relinquish any right, title, claim, lien, interest, easement or
19 demand however acquired, including treat of foreclosure.

20 Procure insurance against any loss in connection with its property and other assets in
21 amounts and from insurers which it deems desirable.

22 Receive, on behalf of the State, bequests and donations that may be made to improve the
23 general comfort and welfare of the members of the home or for the betterment of the home.

24 Borrow funds, make and issue bonds and negotiate notes and other evidences of
25 indebtedness or obligations of the veterans' home for prudent and reasonable capital, operational
26 and maintenance purposes. The home may secure payments of all or part of the obligations by
27 pledge of part of the revenues or assets of the home that are available for pledge and that may be
28 lawfully pledged or by mortgage of part, or all, of any property owned by the home. The home
29 may do all lawful things necessary and incidental to those powers. The home may borrow
30 money from the Federal Government and its agencies, from state agencies and from any other
31 source.

32 Do other acts necessary or convenient to exercise the powers granted or reasonably
33 implied in this section.

34 SECTION 3.

35 The corporation shall appoint an administrator who shall be an honorably discharged
36 veteran who shall administer the Home in accordance with the rules, guidelines and general
37 policies established by the board. The administrator serves an indefinite term, but may be
38 removed for cause by the board. The administrator's salary is set by the board. The
39 administrator shall hire the necessary employees to operate the home and, whenever possible,
40 give preference in hiring to war veterans. These employees shall not be employees of the
41 Commonwealth.

42 SECTION 4.

43 Veterans desiring admission to the home shall apply on forms prescribed by the
44 administrator. Admission shall be granted only to veterans who were residents of the
45 Commonwealth at time of entry into the armed forces or at the time of application and to the
46 spouses, widows or widowers of eligible veterans, provided that suitable facilities are available.
47 Parents of armed services members who are killed in action or die as a consequence of wounds
48 received in battle are also eligible, as so called "Gold Star" parents, for admission. Admission
49 must be granted when provisions of the rules governing private payment, Medicare and Medicaid
50 eligibility to entitled persons are met. Each veteran admitted shall pay the home, as determined
51 by the board, his share of his maintenance which he can afford.

52 SECTION 5.

53 All unrestricted funds received in the future by Home of the Brave, Inc., including federal
54 Veterans' Administration stipend funds, must be held in a permanent fund to be used as required
55 by the administrator for the support and maintenance of the Homes. A percentage of these funds

approved by the board of trustees must be placed in reserve for capital improvement expenditures. Home of the Brave, Inc. shall operate the Homes, when constructed or purchased, as self-liquidating projects until all the bonds issued as provided by this chapter are retired. The Executive Office of Health and Human Services shall not modify its principles of reimbursement for any future long-term care facilities to specifically exclude reimbursement for the depreciation of the assets created with federal or state grants. The corporation shall retain as direct income revenue any stipend funds they may receive from the federal Veterans' Administration for the Homes' entire eligible resident population. The Executive Office of Health and Human Services shall neither receive the proceeds nor require the application of stipend funds in the Medicare or Medicaid rate justification submissions by Home of the Brave, Inc.

SECTION 6.

The corporation shall make an annual report to the Governor on or before November 11. The report shall contain statistics of all veterans who resided in the Home during the year, recommendations to the Governor and General Court and such other matters as the corporation deems pertinent.

SECTION 7.

The corporation's fiscal year shall be the same as the Commonwealth's. The corporation may apply for and receive any grants-in-aid for which the corporation shall be eligible. The corporation shall adopt rules for the administration of the home. Every department and agency of the Commonwealth shall upon request furnish assistance, counsel and advice as the corporation shall require. The Home of the Brave Inc. is subject to the provisions of Chapter 180.

78 SECTION 8.

79 Chapter 33 of the General Laws is hereby amended by inserting after section 67 the
80 following section:-

81 Section 67A. There shall be a Massachusetts Medal of Liberty which shall be awarded to
82 the next of kin of service men and women killed in action. The adjutant general and two field
83 grade officers of the armed forces of the commonwealth detailed by the commander-in-chief
84 shall constitute a commission to make recommendations to the commander-in-chief for the
85 awarding of the Medal of Liberty.

86 SECTION 9.

87 Chapter 23 of the General Laws, is hereby amended by adding the following section:

88 Section 25. Notwithstanding any other general or special law to the contrary veterans
89 who reside in the Commonwealth and are honorably discharged may be exempted from
90 apprenticeship, school and other requirements to acquire a permit or license to perform work in
91 an area requiring a license. The commissioner shall promulgate rules and regulations to award
92 veterans exemption from requirements or credits towards licensure for all related military
93 experience and schooling in the area in which the veteran seeks to be licensed. The rules and
94 regulations shall include but not be limited to accepting military training and work experience in
95 lieu of apprenticeship fully or partially, as the licensing authority determines for the veteran in
96 regards to an apprenticeship and other training requirements.

97 SECTION 10.

Chapter 115 of the General Laws is hereby amended by inserting after section 2B the following new section:

Section 2C. The Commonwealth-wide goal for participation by small businesses owned and controlled by disabled veterans shall be established at not less than 3 percent of total value of all state contract and sub-contract awards for each fiscal year.

For the purposes of this section, a veteran-owned small business shall be defined as any contracting or sub-contracting business, or businesses that supply contractors or sub-contractors which are beneficially owned by one or more disabled veteran a(s) defined in clause Forty-third of section seven of chapter four and as follows:

(i) the business must be at least 51 percent owned by a disabled veteran or veterans; in the case of a corporation having one or more class of stockholders, the ownership must be met as to each class of stock;

(ii) the business must employ at least one but no more than 100 employees, with a majority of those employed by the business working at least 40 hours per week.

(iii) the disabled veteran owner or owners shall demonstrate that they have dominant control over management;

(vi) the business has not been established solely for the purpose of taking advantage of any special program which has been developed to assist veteran-owned businesses;

(v) in the case of a joint venture between a disabled veteran-owned business meeting the requirements of clauses (i) and (iii), inclusive, and a non-veteran-owned business, the joint venture should be found to be a disabled veteran-owned business if the disabled veteran-owned

business meeting the requirements of said clauses (i) and (iii), inclusive, shall have more than one-half control over management of the project bid and shall have the right to receive more than one-half of the profits deriving from the that project.

The Massachusetts Office of Business Development shall oversee and administer the program and work in collaboration with the Massachusetts Small Business Development Center and the National Veterans Business Development Corporation to establish and update, by periodic additions and deletions, a list of disabled veteran-owned businesses defined under this section and shall cause the list to be published in the central register established in section 20 of chapter 9, and filed with the Joint Committee on State Administration, the Joint Committee on Veteran's and Federal Affairs, and in such other publications as the chair of the Office shall designate. The Department of Veterans Services shall assist the Office to validate the disabled veteran status and all disabled veteran-owners applying for state contracts or sub-contracts under this section.

The Office shall submit an annual report disclosing the actual percentage of contracts awarded to disabled veteran-owned small businesses and a detailed listing of contracts awarded to veteran-owned small businesses to the Secretary of the Department of Veteran's Services, the Secretary of the Department of Administration and Finance, and to the House and Senate Chairs of the Joint Committee on Veteran's and Federal Affairs.

This act shall take effect on the first day of the next fiscal year following the act's passage.

SECTION 11.

Notwithstanding any general or special law to the contrary a Massachusetts resident that is sent overseas as a member of the United States Armed Forces is eligible to receive the Welcome Home bill each time deployed, receiving the full bonus upon return of first deployment and fifty percent of the bonus on each subsequent deployments, as long as currently appropriated funding is available and the Treasurer of the Commonwealth certifies said account has the available means to maintain such an initiative. The Treasurer shall provide a status report on the account from time to time to the Secretary of Veterans Services, Secretary of Administration and Finance, The Senate Committee on Ways and Means, The House Committee on Ways and Means and the Joint Committee on Veteran and Federal Affairs.

SECTION 12.

Subsection (a) of section 91B of chapter 54 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out in line 4 the words, “subsections (b) and (c),” and inserting in place thereof the following words:- subsections (b), (c), and (d),.

SECTION 13.

Section 91B of chapter 54 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after subsection (c) the following subsection:

(d) To a voter qualified under the federal Uniformed and Overseas Citizens Absentee Voting Act (42 USC section 1973ff-2), the ballot may be delivered electronically by fax, e-mail, or secure website. The secretary of state may promulgate rules and regulations necessary for the implementation of this section.

SECTION 14.

161 Section 95 of chapter 54 of the General Laws, as appearing in the 2006 Official Edition,
162 is hereby amended by striking out, in line 39 the words “tenth”, and inserting in place thereof the
163 following words:- twentieth

164 SECTION 15.

165 Section 99 of chapter 54 of the General Laws, as appearing in the 2006 Official Edition,
166 is hereby amended by striking out, in line 6 the words “ten”, and inserting in place thereof the
167 following words:- twenty.

168 SECTION 16.

169 Chapter 33 of the General Laws is hereby amended by adding the following section:

170 Section 139. The military forces of the commonwealth shall initiate a functional MRI
171 and neuropsychological cognitive testing programs for all its personnel. Said testing shall take
172 place beginning at their inception to military service and prior to their deployment, during
173 deployment and upon return. If a test indicates diminution of cognitive ability, they shall be
174 referred for medical treatment for diagnosis and follow-up treatment. The Adjutant General of
175 the Massachusetts National Guard shall form a committee to promulgate rules and regulations to
176 administer and shall carry out said, neuropsychological cognitive testing program for the
177 Massachusetts National Guard.

178 SECTION: 17.

179 Section 18 of chapter 207 of the General Laws, as appearing in the 2006 Official Edition
180 is hereby amended by adding the following paragraph:-

181 If a motion for change of custody is filed during the time a parent is in active military
182 duty, the court shall not enter an order modifying or amending a previous judgment or order, or
183 issue a new order, that changes the child's placement that existed on the date the parent was
184 called to active military duty, except the court may enter a temporary custody order if there is
185 clear and convincing evidence that it is in the best interest of the child. Upon a parent's return
186 from active military duty, the court shall reinstate the custody order in effect immediately
187 preceding that period of active military duty. If a motion for change of custody is filed after a
188 parent returns from active military duty, the court shall not consider a parent's absence due to
189 that military duty in a best interest of the child determination.

190 SECTION 18.

191 Section 19 of chapter 208 of the General Laws, as so appearing, is hereby amended by
192 adding the following paragraph:

193 If a motion for change of custody is filed during the time a parent is in active military
194 duty, the court shall not enter an order modifying or amending a previous judgment or order, or
195 issue a new order, that changes the child's placement that existed on the date the parent was
196 called to active military duty, except the court may enter a temporary custody order if there is
197 clear and convincing evidence that it is in the best interest of the child. Upon a parent's return
198 from active military duty, the court shall reinstate the custody order in effect immediately
199 preceding that period of active military duty. If a motion for change of custody is filed after a
200 parent returns from active military duty, the court shall not consider a parent's absence due to
201 that military duty in a best interest of the child determination.

202 SECTION 19.

Section 20 of said chapter 208, as so appearing, is hereby amended by adding the following paragraph:

If a motion for change of custody is filed during the time a parent is in active military duty, the court shall not enter an order modifying or amending a previous judgment or order, or issue a new order, that changes the child's placement that existed on the date the parent was called to active military duty, except the court may enter a temporary custody order if there is clear and convincing evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the custody order in effect immediately preceding that period of active military duty. If a motion for change of custody is filed after a parent returns from active military duty, the court shall not consider a parent's absence due to that military duty in a best interest of the child determination.

SECTION 21.

Section 20A of said chapter 208, as so appearing, is hereby amended by adding the following paragraph:-

If a motion for change of custody is filed during the time a parent is in active military duty, the court shall not enter an order modifying or amending a previous judgment or order, or issue a new order, that changes the child's placement that existed on the date the parent was called to active military duty, except the court may enter a temporary custody order if there is clear and convincing evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the custody order in effect immediately preceding that period of active military duty. If a motion for change of custody is filed after a

parent returns from active military duty, the court shall not consider a parent's absence due to that military duty in a best interest of the child determination.

SECTION 22.

Section 28 of said chapter 208, as so appearing is hereby amended by adding the following paragraph:-

If a motion for change of custody is filed during the time a parent is in active military duty, the court shall not enter an order modifying or amending a previous judgment or order, or issue a new order, that changes the child's placement that existed on the date the parent was called to active military duty, except the court may enter a temporary custody order if there is clear and convincing evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the custody order in effect immediately preceding that period of active military duty. If a motion for change of custody is filed after a parent returns from active military duty, the court shall not consider a parent's absence due to that military duty in a best interest of the child determination.

SECTION 23.

Section 28A of said chapter 208, as so appearing, is hereby amended by adding the following paragraph:-

If a motion for change of custody is filed during the time a parent is in active military duty, the court shall not enter an order modifying or amending a previous judgment or order, or issue a new order, that changes the child's placement that existed on the date the parent was called to active military duty, except the court may enter a temporary custody order if there is

clear and convincing evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the custody order in effect immediately preceding that period of active military duty. If a motion for change of custody is filed after a parent returns from active military duty, the court shall not consider a parent's absence due to that military duty in a best interest of the child determination.

SECTION 24.

Section 29 of said chapter 208, as so appearing, is hereby amended by adding the following paragraph:-

If a motion for change of custody is filed during the time a parent is in active military duty, the court shall not enter an order modifying or amending a previous judgment or order, or issue a new order, that changes the child's placement that existed on the date the parent was called to active military duty, except the court may enter a temporary custody order if there is clear and convincing evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the custody order in effect immediately preceding that period of active military duty. If a motion for change of custody is filed after a parent returns from active military duty, the court shall not consider a parent's absence due to that military duty in a best interest of the child determination.

SECTION 25.

Section 32 of chapter 209 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

265 If a motion for change of custody is filed during the time a parent is in active military
266 duty, the court shall not enter an order modifying or amending a previous judgment or order, or
267 issue a new order, that changes the child's placement that existed on the date the parent was
268 called to active military duty, except the court may enter a temporary custody order if there is
269 clear and convincing evidence that it is in the best interest of the child. Upon a parent's return
270 from active military duty, the court shall reinstate the custody order in effect immediately
271 preceding that period of active military duty. If a motion for change of custody is filed after a
272 parent returns from active military duty, the court shall not consider a parent's absence due to
273 that military duty in a best interest of the child determination.

274 SECTION 26.

275 Section 37 of said chapter 209, as so appearing, is hereby amended by adding the
276 following paragraph:-

277 If a motion for change of custody is filed during the time a parent is in active military
278 duty, the court shall not enter an order modifying or amending a previous judgment or order, or
279 issue a new order, that changes the child's placement that existed on the date the parent was
280 called to active military duty, except the court may enter a temporary custody order if there is
281 clear and convincing evidence that it is in the best interest of the child. Upon a parent's return
282 from active military duty, the court shall reinstate the custody order in effect immediately
283 preceding that period of active military duty. If a motion for change of custody is filed after a
284 parent returns from active military duty, the court shall not consider a parent's absence due to
285 that military duty in a best interest of the child determination.

286 SECTION 27.

Section 2 of chapter 209B of the General Laws is hereby amended by striking out subsection (e), as so appearing, and inserting in place thereof the following subsection:-

(e) If a court of another state has made a custody determination in substantial conformity with this chapter, a court of the commonwealth shall not modify that determination unless (1) it appears to the court of the commonwealth that the court which made the custody determination does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this chapter or that such court has declined to assume jurisdiction to modify its determination, (2) a court of the commonwealth now has jurisdiction pursuant to this chapter and (3) if a motion for change of custody is filed during the time a parent is in active military duty, the court shall not enter an order modifying or amending a previous judgment or order, or issue a new order, that changes the child's placement that existed on the date the parent was called to active military duty, except the court may enter a temporary custody order if there is clear and convincing evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the custody order in effect immediately preceding that period of active military duty. If a motion for change of custody is filed after a parent returns from active military duty, the court shall not consider a parent's absence due to that military duty in a best interest of the child determination.

SECTION 28.

Section 3 of chapter 209C of the General Laws, as so appearing is hereby amended by adding the following subsection:-

(f) If a motion for change of custody is filed during the time a parent is in active military duty, the court shall not enter an order modifying or amending a previous judgment or order, or

309 issue a new order, that changes the child's placement that existed on the date the parent was
310 called to active military duty, except the court may enter a temporary custody order if there is
311 clear and convincing evidence that it is in the best interest of the child. Upon a parent's return
312 from active military duty, the court shall reinstate the custody order in effect immediately
313 proceeding that period of active military duty. If a motion for change of custody is filed after a
314 parent returns from active military duty, the court shall not consider a parent's absence due to
315 that military duty in a best interest of the child determination.

316 SECTION 29.

317 Section 4 of chapter 51 of the General Laws, as so appearing is hereby amended by
318 adding the following wording in line 48 after the word “general” the following:

319 “, Secretary of the Commonwealth’s Department of Veteran Services and Local
320 Municipal Veteran Service Officers.”