

HOUSE No. 3290

The Commonwealth of Massachusetts

PRESENTED BY:

Harold P. Naughton, Jr.

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 adoption of the accompanying bill:

An Act to establish the Commonwealth veteran corps.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>	<i>1/20/2011</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>2/3/2011</i>

HOUSE No. 3290

By Mr. Naughton of Clinton, a petition (accompanied by bill, House, No. 3290) of Harold P. Naughton, Jr., and Carolyn C. Dykema relative to veterans' courts. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to establish the Commonwealth veteran corps.

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. The General Laws are hereby amended by inserting after chapter 185C the
2 following chapter:-

3 Chapter 185D

4 Veterans Court Department

5 Section 1. The veterans court department, established under section 1 of chapter 211B,
6 shall be composed of a western division, consisting of the cities and towns of Berkshire,
7 Franklin, Hampden and Hampshire counties; a division for Worcester county, including the town
8 of Bellingham in Norfolk county, the city of Marlborough and the towns of Ashby, Hudson and
9 Townsend in Middlesex county, and the jurisdiction known as Devens established under chapter
10 498 of the acts of 1993; a northeastern division, including the cities and towns of Essex county
11 and the city of Lowell and the towns of Acton, Ayer, Billerica, Boxborough, Carlisle,
12 Chelmsford, Concord, Dracut, Dunstable, Groton, Littleton, Maynard, Pepperell, Shirley, Stow,
13 Tewksbury, Tyngsborough, and Westford in Middlesex county; a southeastern division,

14 including the cities and towns of Bristol and Plymouth counties; and a division for the city of
15 Boston. Wherever the words “veterans court” are used, or wherever in this chapter the word
16 “court” is used in that context, they shall refer to a division of the veterans court department; and
17 the words “judge of the veterans court” or the word “judge”, in context, shall mean an associate
18 justice of the trial court appointed to a division of the veterans court department.

19 Section 2. The divisions of the veterans court department shall have superior and general
20 jurisdiction with reference to all cases and matters within their jurisdiction; and no order, decree,
21 judgment, sentence, warrant, writ or process made, issued or pronounced by them need set out
22 any adjudication or circumstances with greater particularity than would be required in other
23 departments of superior and general jurisdiction, and the like presumption shall be made in favor
24 of proceedings in the veterans court department as would be made in favor of proceedings in
25 other departments of superior and general jurisdiction. Writs, subpoenas, citations, orders,
26 notices, executions and all other processes issued in the veterans court department signed by the
27 clerk, temporary clerk or an assistant clerk, and bear the teste of the first justice of the division
28 and shall run throughout the commonwealth.

29 Section 3. The divisions of the veterans court department shall have common law and
30 statutory jurisdiction concurrent with the divisions of the district court department and the
31 superior court department of all crimes and of all civil actions arising in the city of Boston in the
32 case of that division, in the counties of Berkshire, Franklin, Hampden and Hampshire in the case
33 of the western division and within the cities and towns included in the Worcester county
34 division, northeastern division and southeastern division, in the case of those divisions, under
35 chapter forty A, sections twenty-one to twenty-five, inclusive, of chapter two hundred and
36 eighteen, sections fourteen and eighteen of chapter one hundred and eighty-six and under so

37 much of sections one hundred and twenty-seven A to one hundred and twenty-seven F, inclusive,
38 and sections one hundred and twenty-seven H to one hundred and twenty-seven L, inclusive, of
39 chapter one hundred and eleven, so much of chapter ninety-three A, so much of section sixteen
40 of chapter two hundred and seventy, so much of chapters one hundred and forty-three, one
41 hundred and forty-eight, and two hundred and thirty-nine, jurisdiction under the provisions of
42 common law and of equity and any other general or special law, ordinance, by-law, rule or
43 regulation as is concerned directly or indirectly with the health, safety, or welfare, of any
44 occupant of any place used, or intended for use, as a place of human habitation and the
45 possession, condition, or use of any particular veterans accommodations or household goods or
46 services situated therein or furnished in connection there with or the use of any real property and
47 activities conducted there on as such use affects the health, welfare and safety of any resident,
48 occupant, user or member of the general public and which is subject to regulation by local cities
49 and towns under the state building code, state specialized codes, state sanitary code, and other
50 applicable statutes and ordinances. The divisions of the veterans court department shall also have
51 jurisdiction of all veterans problems, including all contract and tort actions which affect the
52 health, safety and welfare of the occupants or owners thereof, arising within and affecting
53 residents in the city of Boston, in the case of that division, Berkshire, Franklin, Hampden and
54 Hampshire counties, in the case of the western division and within the cities and towns included
55 in the Worcester county division, northeastern division and southeastern division, in the case of
56 those divisions, and shall also have jurisdiction in equity, concurrent with the divisions of the
57 district court department, the divisions of the probate and family court department, the superior
58 court department, the appeals court, and the supreme judicial court, of all cases and matters so
59 arising.

60 In all matters within their jurisdiction, the divisions of the veterans court department shall
61 have all the powers of the superior court department including the power to grant temporary
62 restraining orders and preliminary injunctions as justice and equity may require. The divisions
63 shall have like power and authority for enforcing orders, sentences and judgments made or
64 pronounced in the exercise of any jurisdiction vested in them, and for punishing contempts of
65 such orders, sentences and judgments and other contempts of their authority, as are vested for
66 such or similar purposes in the supreme judicial court or superior court department.

67 Section 4. The western division of the veterans court department shall hold its sittings in
68 the city of Springfield in Hampden county and at least one sitting each week in courthouse
69 facilities in Berkshire, Franklin and Hampshire counties. The court, with the consent of the chief
70 administrative justice and management shall also sit in such other courthouse facilities as the
71 chief justice of the veterans court department may deem to be expedient or convenient.

72 The division of the veterans court department for the city of Boston shall hold its sittings
73 in the Suffolk county courthouse and, with the consent of the chief justice for administration and
74 management, in such other courthouse facilities within the city of Boston as the chief justice of
75 the veterans court department may deem to be expedient or convenient.

76 The division of the veterans court department for Worcester county shall hold its sittings
77 in the facilities of the Worcester county courthouse in the city of Worcester and at regular and
78 frequent intervals in a district courthouse in the northern and southern areas of said county, but in
79 no event less frequently than once per week in each of said northern and southern areas. The
80 court, with the consent of the chief justice for administration and management shall also sit in

81 such other courthouse facilities within said county as the chief justice of the veterans court
82 department may deem to be expedient or convenient.

83 The northeastern division of the veterans court department shall hold its sittings in the
84 courthouse facilities located in the city of Lawrence and at regular and frequent intervals at the
85 courthouse facilities in the city of Salem, including at least one sitting each week in Salem,
86 including one sitting each week in the city of Lowell, and also at least one sitting each week in
87 the courthouse facilities in either the city of Lynn or the city of Peabody or the city of Haverhill.
88 The court, with consent of the chief justice for administration and management shall also sit in
89 such other courthouse facilities as the chief justice of the veterans court department may deem to
90 be expedient or convenient.

91 The southeastern division of the veterans court department shall hold its sittings in the
92 courthouse facilities located in the city of Taunton and at regular and frequent intervals at the
93 courthouse facilities in the cities of Brockton, Fall River and New Bedford; provided, however,
94 that said southeastern division shall hold at least two sittings each week in Plymouth county and
95 two sittings each week in Bristol county. The court, with the consent of the chief justice for
96 administration and management shall also sit in such other courthouse facilities as the chief
97 justice of the veterans court department may deem to be expedient or convenient.

98 Section 5. The divisions of the veterans court department shall always be open and the
99 business thereof, or of a justice thereof, may be transacted at any time; but such business shall
100 not, except as provided in section six of chapter two hundred and twenty, be transacted on
101 Saturday or Sunday or on a legal holiday unless it relates to an application which, in the opinion
102 of the justice to whom it is made, is of pressing necessity; provided, however, that, if the

103 convenience of the public so requires, the courts shall be open for the transaction of business on
104 such Saturdays, not legal holidays, and during such hours thereof as the chief justice of the
105 veterans court department may determine.

106 Section 6. Each division of the veterans court department shall have a seal which will be
107 in the custody of its clerk, and shall be affixed to all processes issued by a division of the
108 veterans court department requiring a seal.

109 Section 7. The chief justice of the veterans court department shall from time to time
110 make general rules and forms of procedure, which, before taking effect, shall be approved by the
111 supreme judicial court or a justice thereof.

112 Section 8. There shall be two justices appointed for the western division, two justices
113 appointed for the Worcester county division, one justice appointed for the northeastern division,
114 two justices appointed for the southeastern division, two justices appointed for the city of Boston
115 division of the veterans court department and one justice who shall be and perform the duties of
116 a circuit justice in such counties as the chief justice shall from time to time designate. The chief
117 justice of the veterans court department, subject to the approval of the chief justice for
118 administration and management, shall designate one justice to be the first justice of each court;
119 provided, however, that appropriate consideration shall be given to seniority, length of service at
120 that particular court, and managerial ability. Said first justice shall be the administrative head of
121 that particular court and shall have the power, authority and responsibility of a first justice as set
122 forth in section 10A of chapter 211B; provided, however, that clerks shall have responsibility for
123 the internal administration of his office, including the selection, appointment, and management
124 of personnel, staff services and record keeping. A first justice or a clerk of the court may submit

125 any dispute that arises between said first justice and said clerk concerning the management and
126 administration of the office of the clerk, the duties, powers and obligations of the clerk, or a
127 member of their staff, or the interpretation of the personnel standards provided for under section
128 eight of chapter two hundred and eleven B, to the chief justice of the department. Any person
129 aggrieved by a decision of a chief justice under this paragraph may appeal said decision to the
130 chief justice for administration and management, who shall, within thirty days, hear and
131 determine the matter. Each first justice so appointed shall serve as the first justice of that court
132 for a five-year term and shall be eligible to be reappointed to serve additional five-year terms at
133 that particular court. Any first justice may be removed from his position as first justice when it is
134 determined by the chief justice of the veterans court department to be in the best interests of the
135 administration of justice. Any first justice who is removed from his position as first justice by the
136 chief justice of the veterans court department may appeal the removal to the chief justice for
137 administration and management.

138 Section 9. The justice as provided under section one of chapter two hundred and eleven
139 B as the chief justice for the veterans court department, in addition to his judicial powers and
140 duties shall, subject to the superintendence authority of the supreme judicial court provided in
141 section three of chapter two hundred and eleven B, and subject to the administrative authority of
142 the chief justice of administration and management, be the administrative head of the veterans
143 court department, and shall also have the power, authority and responsibility of a chief justice as
144 set forth in section ten of chapter two hundred and eleven B. Said chief justice shall serve as the
145 chief justice of that department for a five-year term and shall be eligible to be reappointed to
146 serve additional five-year terms. Said chief justice may be removed from his position as chief

147 justice when it is determined by the chief justice for administration and management to be in the
148 best interests of the administration of justice.

149 Section 10. There shall be a clerk, appointed by the governor with the advice and consent
150 of the council, for each of the veterans courts. Said clerks shall hold office during good behavior,
151 subject however, to retirement under the provisions of any general or special law relative to
152 retirement systems. The clerk appointed for the western division shall reside in either Berkshire,
153 Franklin, Hampden or Hampshire counties. Said clerks shall have responsibility for the internal
154 administration of their respective offices, including the selection, appointment, and management
155 of personnel, staff services and record keeping. The chief justice, a first justice or a clerk of the
156 veterans court may submit any dispute that arises between said chief justice or said first justice
157 and said clerk of court, concerning the management and administration of the clerk's office, the
158 duties, powers and obligations of the clerk-magistrate or a member of the clerk-magistrate's staff,
159 or the interpretation of the personnel standards provided for under section eight of chapter two
160 hundred and eleven B, to the chief justice for administration and management, who shall, within
161 thirty days, hear and determine the matter. The decision of the chief justice for administration
162 and management shall be binding on the parties.

163 Section 11. The salaries of the clerks of the veterans court department appointed under
164 the provisions of section nine shall be 81.57 per cent of the salary of the chief justice of said
165 department and shall be paid, subject to appropriation, by the commonwealth. The salaries of the
166 first assistant clerks in said department shall be eighty-three and one-half percent of the salary of
167 the clerks of said court and shall be paid, subject to appropriation, by the commonwealth. The
168 salaries of assistant clerks in said department appointed under the provisions of section eleven

169 shall be seventy-seven percent of said clerk's salary and shall be paid, subject to appropriation,
170 by the commonwealth.

171 Said clerks and assistant clerks shall devote their entire time during business hours to
172 their respective duties and shall not, directly or indirectly, engage in the practice of law.

173 Section 12. In case of the illness or absence of a clerk, the chief justice of the veterans
174 court department may appoint a temporary clerk to act until the clerk resumes his duties.

175 Section 13. The clerk of a division of the veterans court department may appoint 1 or
176 more assistant clerks, who shall be removable at his pleasure. The clerk shall be responsible for
177 all official acts of the assistant clerks and all powers conferred by statute upon the clerk, unless
178 otherwise stated, and in any event subject to limitation by the clerk or the administrative justice,
179 may be exercised by an assistant clerk.

180 Section 14. The clerk, any temporary clerk and all assistant clerks shall be sworn; and in
181 the case of any temporary clerk and of every assistant clerk, the oath of office shall be
182 administered by the chief justice of the veterans court department who shall, upon administering
183 the same, forthwith make return of such act with the date thereof to the state secretary.

184 Section 15. The clerk, any temporary clerk and every assistant clerk, before entering
185 upon performance of his official duties, and thereafter, at intervals of not more than one year, so
186 long as he continues to hold such office shall give to the commonwealth a bond, conditioned to
187 perform faithfully his official duties, with a surety company, authorized to transact business in
188 the commonwealth as surety, in a sum approved by the chief justice of the veterans court
189 department, but in no event less than five thousand dollars. Failure to give such bond shall be
190 sufficient cause for his removal.

191 Section 16. The clerk, temporary clerk and assistant clerks or one of them for each
192 division shall attend all sessions of the veterans court department and shall keep a record of all
193 its proceedings. The clerk of each division shall have the care and custody of all the records,
194 books and papers appertaining to, or filed or deposited in, his office. The clerk of each division
195 shall make and issue writs and processes, shall make returns of the veterans court department,
196 tax bills of costs and receive fines, forfeitures, fees and costs accruing from the civil and criminal
197 business of the veterans court department including fees for blanks and copies. The clerk of each
198 division shall have such other powers and duties as the first justice of the particular division may,
199 subject to the approval of the chief justice of veterans court department from time to time order.

200 The clerk and assistant clerks of each division of the veterans court department may sign
201 process issued by the veterans court department and veterans court department records,
202 documents or other legal papers or copies thereof made or issued by such other clerk or an
203 assistant clerk in conformity with law, except search warrants and process authorizing arrests or
204 commitments, by imprinting thereon a facsimile of the signature of the clerk or assistant clerk;
205 and such facsimile signatures shall have the same validity as their written signatures.

206 Section 17. The first justice of a division may appoint such number of court officers for
207 his division as the administrative justice of the veterans court department may from time to time
208 determine. Any such court officer may be removed for any cause considered by the first justice
209 of the division to be sufficient. Any vacancy caused by removal or otherwise may be filled by the
210 first justice of the division. The court officers shall attend the sessions in the divisions of the
211 veterans court department, shall preserve order and may serve warrants, mittimus, precepts,
212 orders and processes of a division of the veterans court department. Each court officer shall give
213 bond for the faithful performance of his duties in the sum of one thousand dollars payable to the

214 commonwealth, with sufficient sureties approved by the administrative justice. Each court
215 officer, while on duty in the veterans court department, shall wear a uniform approved by the
216 administrative justice which shall be furnished at the expense of the commonwealth.

217 Section 18. The first justice of a particular veterans court may appoint, subject to
218 appropriation and subject to the approval of the chief justice of the veterans court department,
219 such number of veterans specialists as he may from time to time determine. Said first justice may
220 designate one of them as chief veterans specialist for the court. All veterans specialists shall hold
221 office at the pleasure of said chief justice, subject, however, to retirement under the provisions of
222 any applicable general or special law relative to retirement systems. All veterans specialists shall
223 be knowledgeable in the maintenance, repair, and rehabilitation of dwelling units; the problems
224 of landlord and tenant as they pertain to dwelling units; the types of funds and services available
225 to assist landlords and tenants in the financing and resolution of such problems; the federal and
226 state laws, rules and regulations pertaining to the maintenance, repair and rehabilitation of such
227 units; and the financing and resolution of such problems. The veterans specialists shall have such
228 powers and perform such duties as said chief justice shall from time to time prescribe. Every
229 veterans specialist shall be sworn by the chief justice of the veterans court, who shall, upon
230 administering the oath, forthwith make return of such act with the date thereof to the state
231 secretary.

232 Section 19. No clerk, temporary clerk, assistant clerk or veterans specialist shall be
233 retained or employed as an attorney in any complaint, action or suit in any court of the
234 commonwealth.

235 Section 20. At the trial of any issue of fact, the justice presiding at the trial shall provide
236 for a proper recording system which shall record the proceedings. The cost of said recording
237 system shall be paid by the commonwealth upon the certificate of the chief justice for
238 administration and management. Each clerk of the veterans court department may procure law
239 books and blank books, blanks, stationery and other incidentals required by the divisions of the
240 veterans court department as the chief justice for administration and management may approve.

241 Section 21. Proceedings shall be commenced in the veterans court department as
242 follows: a criminal case by complaint in like manner as in the district court department, a civil
243 action in accordance with the Massachusetts Rules of Civil Procedure; provided, however, that a
244 summary process action and a small claims action shall be commenced and administered in
245 accordance with rules promulgated with the approval of the supreme judicial court. Clerks of the
246 veterans court department shall charge a fee of \$120 for the entry of an action, for the filing of a
247 third-party complaint, and for the filing of a motion to intervene as plaintiff, which shall be paid
248 by the party entering or filing the same; and no other fee shall be charged for taxing costs, for
249 issuing any subpoena or execution or for issuing any order of notice or other mesne,
250 interlocutory or final order, rule, decree of process authorized by law, except a temporary
251 restraining order or preliminary injunction for the issuance of which the clerk shall charge \$90;
252 provided, however, that no fee for the entry of an action or for the issuance of a temporary
253 restraining order or preliminary injunction shall be charged to the commonwealth or political
254 subdivision thereof.

255 Notwithstanding that a proceeding under this chapter is commenced by complaint, if it is
256 found that the offense charged was not willful, intentional, reckless or repeated, the proceeding
257 shall not be deemed criminal and no record of the case shall be entered in the probation records.

258 Section 22. Any civil action within the jurisdiction of the veterans court department
259 which is pending in another court department may be transferred to the veterans court
260 department by any party thereto.

261 Whenever cross actions between the same parties or two or more actions, including for
262 the purposes hereof other department proceedings, arising out of or connected with the same
263 veterans accommodation are pending, one or more in the veterans court department, the district
264 court department, the probate and family court department, or in the superior court department,
265 the chief justice of the veterans court or the first justice upon motion of any party to any of such
266 actions, may order that the action or actions pending in the district court department and in the
267 probate and family court department and in the superior court department with all papers relating
268 thereto, be transferred to the veterans court department; and such action or actions shall
269 thereafter proceed in the veterans court department as though originally entered there.

270 Section 23. All cases in the veterans court department, including motions and the like,
271 whether interlocutory or final, shall be heard and determined by a justice of a division of the
272 veterans court department sitting without jury, except that in all cases where a jury trial is
273 required by the constitution of the commonwealth or of the United States and the defendant has
274 not waived his rights to a trial by jury, the cause shall be forthwith tried in a division of the
275 veterans court department before a jury selected in accordance with chapter two hundred and
276 thirty-four. In the trial of any complaint or action in the veterans court department, the report of
277 any inspector serving in the veterans inspection department of a city or the board of health of any
278 city or town shall be prima facie evidence of the facts stated therein.

279 Section 24. Every judgment or order entered by a division of the veterans court
280 department shall bear as its date the day when actually entered by the clerk, and at the time of the
281 entry he shall note such date upon the judgment or order and upon the docket.

282 Section 25. The bond of any receiver appointed by a division of the veterans court
283 department shall be payable to the commonwealth and shall otherwise be in such form as the
284 chief justice of the veterans court department shall require. Such bond may be enforced in the
285 name of the commonwealth by the treasurer of the commonwealth, or by any person interested
286 therein and authorized by the chief justice of the veterans court department, after notice to said
287 treasurer, to take such action. The veterans court department shall have exclusive original
288 jurisdiction of actions on such bonds. Any sums recovered shall be paid over or administered as
289 a justice of the veterans court department directs.

290 SECTION 2. Section 1 of chapter 211B of the General Laws, as appearing in the
291 2008 Official Edition, is hereby amended by inserting after the word “department”, the second
292 time it appears, in line 5, the following words:- the veterans court department.

293 SECTION 3. Section 2 of said chapter 211B, as so appearing, is hereby amended by
294 inserting after the word “department”, in line 6, the following words:- 10 justices appointed to
295 the veterans court department.