

SENATE No. 1836

The Commonwealth of Massachusetts

PRESENTED BY:

Steven A. Tolman

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 relative to substance abuse services for veterans.

PETITION OF:

NAME:

Steven A. Tolman

DISTRICT/ADDRESS:

SENATE No. 1836

By Mr. Tolman, a petition (accompanied by bill, Senate, No. 1836) of Steven A. Tolman for legislation relative to substance abuse services for veterans. Veterans and Federal Affairs.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to substance abuse services for veterans.

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

1 Section 1. The General Laws are hereby amended by inserting after Chapter 282 the
2 following new chapter:-

3 Section 2. (a) There shall be a commission on veterans which shall consist of the
4 Massachusetts Veterans Commission existing as leadership of the veterans' substance abuse
5 courts,

6 (b) The Massachusetts Veterans Commission may consist of:

7 (1) district attorneys;

8 (2) judges;

9 (3) court officers; or

10 (4) other necessary officials.

Section 3. (a) According to MGL chapter 29 section 2BBBB, the veterans' substance abuse courts may be funded by the Commonwealth Substance Abuse Prevention and Treatment Fund.

(b) Additional funding for a veterans' substance abuse court and a specific veterans' substance abuse court fund may come from the state treasury outside the General Fund and may be composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) money deposited to the credit of the fund;

(3) money contributed voluntarily from citizens from fundraising programs developed by the legislature or another acting body;

(4) gifts and grants contributed to the fund;

(5) the earnings of the fund; and

(6) fees collected under Section 9.

(c) Money in the funds may be appropriated to the Massachusetts Veterans Commission and a veterans' substance abuse court to:

(1) improve, develop, enforce and administer goals of a veterans' substance abuse court;

(2) enhance or improve veterans' assistance programs;

(3) make grants to address specific veterans' needs; and

(4) administer the veterans' substance abuse court fund.

Section 4. (a) A veterans' substance abuse court shall:

(1) integrate services in the processing of cases in the judicial system;

(2) use a non-adversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of court participants;

(3) identify and place eligible participants in a veterans' substance abuse court or related treatment;

(4) have access to a continuum of controlled substance related treatment and rehabilitative services;

(5) carefully monitor treatment and services provided to veterans' substance abuse court participants;

(6) have ongoing judicial interaction with veterans' substance abuse court participants;

(7) monitor and evaluate veterans' substance abuse court goals and effectiveness;

(8) continue interdisciplinary education to promote effective court preparation, implementation and operation;

(9) develop partnerships with public agencies and community organizations, including the United States Department of Veterans Affairs; and

(10) use a presiding judge to decide a defendant's case.

Section 5. (a) The Massachusetts Veterans Commission may establish a veterans' substance abuse court for veterans arrested for crimes involving or relating to substance abuse.

(b) A defendant shall be eligible to participate in a veterans' substance abuse court established under this chapter only if the representing district attorney consents to the defendant's participation in a veterans' substance abuse court and if the court in which the criminal case is pending finds that the defendant:

(1) is a veteran or current member of the United States armed forces, including a member of the reserves, national guard or state guard; and

(2) suffers from controlled substance dependence as defined by the current Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) and approved by the licensed clinician administering a point of entry examination.

(c) The representing district attorney and presiding judge may prevent eligibility of a defendant for a veterans' substance abuse court and subsequent treatment, at any time, because the defendant:

(1) has committed a crime involving or relating to the death of a person; or

(2) is considered inappropriate for a veterans' substance abuse court.

(d) Proof of matters described by Subsection (b) may be submitted to the court in which the criminal case is pending in the form the court determines to be appropriate, including military service records, medical records, previous determinations by a veteran's organization or by the United States Department of Veterans Affairs and prior determinations of eligibility for benefits by a state or county veterans office.

Section 6. (a) A veterans' substance abuse court established under this chapter shall:

(1) ensure a person eligible for a veterans' substance abuse court is provided legal counsel before proceeding through the court and while participating in the court;

(2) allow a participant to withdraw from the court at any time before a trial on the merits has been initiated;

(3) provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant;

(4) ensure that the jurisdiction of a veterans' substance abuse court continues for a period of not less than 6 months after placement, allowing case management and coordination with necessary bodies; and

(5) provide progress reports and other information about a defendant's experience with a veterans' substance abuse court to a district attorney upon request.

(b) A veterans' substance abuse court established under this chapter shall publish court procedures and information to ensure maximum awareness and participation of eligible defendants.

Section 7. The Massachusetts Veterans Commission and a veterans' substance abuse court of two or more counties may elect to establish a regional veterans' substance abuse court under this chapter for the participating counties.

Section 8. (a) The Massachusetts Veterans Commission established under this chapter may assign to appropriate legislative committees, including the House Ways and Means, Senate Ways and means, Joint Committee on Mental Health and Substance Abuse and Joint Committee

on Veterans and Federal Affairs, duties relating to the oversight of a veterans' substance abuse court established under this chapter.

(b) A legislative committee or the governor may request the state auditor to perform a management, operations or financial or accounting audit of a veterans' substance abuse court established under this chapter.

(c) A veterans' substance abuse court established under this chapter shall:

(1) notify the criminal justice division of the governor's office, district attorneys association and the Interagency Taskforce on Substance Abuse and Prevention, before or on implementation of a veterans' substance abuse court; and

(2) provide information regarding the performance of the court to that division on request.

Section 9. (a) A veterans' substance abuse court established under this chapter may collect from a participant in the court:

(1) a reasonable court fee not to exceed \$1,000; and

(2) A testing, counseling and treatment fee in an amount necessary to cover the costs of testing, counseling, or treatment performed or provided under the court or related treatment.

(b) Fees collected under this section may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge or court official. The fees must be:

(1) based on the participant's ability to pay; and

(2) used only for purposes specific to a veterans' substance abuse court.

Section 10. This act shall take effect 6 months after its passage.