

HOUSE No. 4298

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to the governance, structure and care of veterans at the Commonwealth’s veterans’ homes.

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. Chapter 6 of the General Laws, as appearing in the 2020 Official Edition, is
2 hereby amended by striking sections 40 and 41 and inserting in place thereof the following 2
3 sections:-

4 Section 40. (a) There shall be a board of trustees of the veterans’ home in Chelsea,
5 consisting of five persons, at least three of whom shall be war veterans. Upon the expiration of
6 the term of office of a member, their successor shall be appointed by the secretary of health and
7 human services, with the approval of the governor, to serve for five years. The secretary shall
8 designate one of the members as chairperson. The members shall serve without compensation,
9 but shall receive their necessary expenses incurred in the discharge of their official duties.

10 (b) There shall be a board of trustees of the veterans’ home in Holyoke, consisting of five
11 persons, who shall be residents of the counties of Berkshire, Franklin, Hampden and Hampshire.
12 Each of said counties shall be represented on said board by at least one trustee who is a resident
13 therein. Upon the expiration of the term of office of a member, their successor shall be appointed

14 by the secretary of health and human services, with the approval of the governor, to serve for
15 five years. The secretary shall designate one of the members as chairman. The members shall
16 serve without compensation, but shall receive their necessary expenses incurred in the discharge
17 of their official duties.

18 (c) The boards of trustees for the soldier's homes in Chelsea and Holyoke, hereinafter
19 referred to as the local boards, shall represent the local community, residents, and family
20 members of each home on the Veterans' Homes Council established in section 41. Each member
21 of the local boards shall serve ex officio on the council. The local boards shall nominate a
22 candidate for superintendent of their respective veterans' homes to the full council for approval.
23 The council shall adopt the necessary rules, regulations, by-laws, roles and responsibilities for
24 the local boards. All members of the local boards shall complete annual training regarding their
25 roles and responsibilities, including training relative to all applicable statutes and rules mandated
26 by the office of the comptroller and the executive office for administration and finance as well as
27 procurement rules for public agencies.

28 Section 41. (a) There is hereby established the Veterans' Homes Council. The council
29 shall consist of the executive director of veterans' homes and housing established in section 12
30 of chapter 115A, who shall serve as chair; the adjutant general of the Massachusetts national
31 guard; 2 members appointed by the governor; 1 member appointed by the secretary of health and
32 human services; 1 member appointed by the speaker of the house; 1 member appointed by the
33 senate president; and 10 members of the local boards of trustees serving ex officio. All members
34 of the council shall be appointed by the governor. Members of the council shall serve for a term
35 of 5 years or until a successor is appointed. An appointed member may be removed for cause at
36 any time during the member's term by the governor. A vacancy must be filled for the balance of

37 the unexpired term in the same manner as the original appointment. Members of the council shall
38 serve without compensation but may receive reasonable reimbursement for travel and expenses
39 incurred in the discharge of their duties. A majority of the appointed and serving members of the
40 council shall constitute a quorum of the council for the transaction of business. Actions of the
41 council must be approved by a majority vote of the members present at a meeting where a
42 quorum is present. All members of the council shall complete annual training regarding their
43 roles and responsibilities, including training relative to all applicable statutes and rules mandated
44 by the office of the comptroller and the executive office for administration and finance as well as
45 procurement rules for public agencies.

46 (b) The council shall manage and control all veterans' homes established in the
47 commonwealth, and all property, real and personal, belonging to the commonwealth and
48 occupied or used by said homes, and shall hold and administer in trust the property included in
49 the "legacy fund" and the "effects accounts," if and when the transfer thereof to the
50 commonwealth is effected pursuant to a decree of a court of competent jurisdiction, and in
51 accordance with the terms and conditions imposed by such decree⁹

52 (c) The council shall also (i) adopt the necessary rules, regulations, by-laws, roles and
53 responsibilities for the boards of trustees of the veterans' homes in Chelsea and Holyoke; (ii)
54 adopt standardized rules and regulations governing outpatient treatment, admission to and
55 hospitalization in the homes; (iii) develop and amend bylaws that are consistent at all current or
56 future state-operated veterans' homes, which shall include, but shall not be limited to, admissions
57 eligibility and procedures, procurement, per diem rates, and staffing levels; (iv) have the
58 authority to review and comment on rules promulgated by the executive office of veterans affairs
59 concerning the homes before the rules are submitted for public comment; (v) review and provide

60 written comments to the executive director of veterans' homes and housing and the secretary of
61 veterans affairs regarding the system of governance and oversight for the homes, which shall
62 include all rules, regulations and laws necessary for effective management and preserving the
63 health and welfare of the veterans admitted to state-operated veteran health care and long-term
64 care facilities; (vi) develop a system of reviewing charges, complaints, and comments from, but
65 not limited to, residents, family members of residents, and the ombudspersons for the homes; and
66 (vii) consider nationally recognized models and guidelines for the delivery of health care in state-
67 operated veterans' homes in the development of any by-laws, rules, procedures and protocols.

68 SECTION 2. Section 70 and 71 of chapter 6 of the General Laws are hereby repealed.

69 SECTION 3. Chapter 111 of the General Laws, as appearing in the 2020 Official Edition,
70 is hereby amended by inserting after section 71 the following section:-

71 Section 71A. The department of public health shall conduct inspections of all state-
72 operated veterans' homes not less than twice per year or more frequently as the department
73 deems necessary. After such inspection, the department shall give the superintendent of the
74 home, the executive director of veterans' homes and housing, the secretary of veterans affairs,
75 and the veteran advocate established in chapter 115B notice in writing of every violation of
76 applicable rules and regulations, and the department shall specify a reasonable period of time not
77 exceeding 30 days after receipt thereof to provide a plan to correct such violations within a
78 reasonable time. Inspection reports and corrections of violations shall be made available to the
79 public.

80 SECTION 4. Chapter 115A of the General Laws is hereby amended by striking out
81 section 12, as so appearing, and inserting in place thereof the following section:-

82 Section 12. (a) There shall be within the department of veterans' services an office of
83 veterans' homes and housing. The secretary of veterans' services shall appoint an executive
84 director of veterans' homes and housing who shall have: (i) at least 5 years of experience in
85 health care management and (ii) military or other experience working with veterans. The duties
86 of the executive director shall include, but shall not be limited to: (i) oversight of the office; and
87 (ii) service as an advisor to the secretary of veterans' services on matters relative to veterans'
88 housing. The position of executive director shall be classified pursuant to section 45 of chapter
89 30. The executive director may, with the approval of the secretary of veterans' services, appoint
90 and remove any employees necessary to carry out the duties of the office. Unless otherwise
91 provided by law, all such appointments and removals shall be made pursuant to chapter 31. The
92 office shall: (i) coordinate and oversee implementation and enforcement of laws, regulations and
93 policies relative to the veterans' homes and other housing for veterans; and (ii) investigate and
94 make recommendations on best practices for providing housing for veterans. The executive
95 director shall have access to all property of the commonwealth under the oversight of the
96 department of veterans services to carry out the duties of the office; provided, however, that the
97 members of the boards of trustees of the veterans homes in Chelsea and Holyoke, and the
98 members of the veterans' homes council shall not be subject to the control of the executive
99 director; and provided further, that the executive director shall not have control over the day-to-
100 day operations of state-operated veterans' homes.

101 (b) Annually, not later than November 1, the office shall submit a report to the general
102 court on the state of the veterans' homes. The report shall include findings relative to: (i) the
103 quality of care provided at the homes; (ii) the financial status of the homes; (iii) the uniformity of
104 programs at the homes; (iv) the capital needs of the homes; (v) the quality of care provided at the

105 homes; and (vi) the status of the United States Department of Veterans Affairs' accreditation,
106 including the efforts necessary to maintain compliance and the efforts necessary to become fully
107 compliant with the United States Department of Veterans Affairs' standards at each soldiers'
108 home. The report shall also include an analysis of activities of the office and of the veterans'
109 homes council. The office shall submit the report to the governor, the clerks of the house of
110 representatives and senate, and the joint committee on veterans and federal affairs.

111 SECTION 5. Chapter 115A of the General Laws, as appearing in the 2020 Official
112 Edition, is hereby amended by adding the following 4 new sections:-

113 Section 13. (a) Each state-operated veterans' home shall have a superintendent as its
114 administrative head, who shall report to the executive director of veterans' homes and housing.
115 The superintendent for each state-operated veterans' home shall (i) be licensed as a nursing home
116 administrator pursuant to section 109 of chapter 112 of the General Laws and (ii) be a veteran or
117 have experience with management of veterans in a nursing home or long-term care facility. The
118 local boards of trustees shall nominate candidates for the position of superintendent of their
119 respective homes to the council established in section 41 of chapter 6 for their review and
120 approval. Recommendations for the removal of a superintendent shall be submitted by the local
121 boards of trustees or the governor to the council for their review.

122 Section 14. (a) Each state-operated veterans' home shall employ an ombudsperson as a
123 full-time, paid position for the purpose of advocating on behalf of residents and staff of the home
124 and of receiving, investigating and resolving through administrative action, in a timely manner,
125 complaints filed by residents and staff of the home, individuals acting on their behalf or any
126 individual organization or government agency that has reason to believe that the home, an

127 organization or a government agency has engaged in activities, practices or omissions that
128 constitute violations of applicable statutes or regulations or that may have an adverse effect upon
129 the health, safety, welfare or rights of residents or staff of the home. Said ombudsperson may
130 work with leadership at the home or the executive director of veterans' homes and housing as
131 needed to resolve any complaint and shall inform the party that initiated the complaint once a
132 resolution has been reached. The ombudsperson shall report to the executive director of veterans'
133 homes and housing established in section 12 of chapter 115A. Said ombudsperson may also
134 facilitate family meetings, provide outreach, and lead orientation meetings for new residents of
135 the homes and their families. Said ombudsperson shall not be subject to the provisions of section
136 9A of chapter 30 or chapter 31.

137 (b) No person shall discharge, discipline or otherwise retaliate against any resident or
138 staff of a state-operated veterans' home, individual acting on their behalf or individual
139 organization for filing a complaint with the ombudsperson for a state-operated veterans' home or
140 for disclosing information in an investigation resulting from any such complaint, provided that
141 the complaint was not made or the information was not disclosed with the knowledge that it was
142 false or with willful disregard for its truth or falsity. The ombudsperson for each home shall
143 make every effort to ensure the confidentiality of those who submit complaints to them.

144 Section 15. (a) All state-operated veterans' homes in the commonwealth shall apply for
145 and maintain certification by the Centers for Medicare and Medicaid Services to participate in
146 the Medicare and Medicaid programs, pursuant to subpart B of part 483 of title 42 of the U.S.
147 code of federal regulations. The superintendent of each state-operated veterans' home in
148 coordination with the executive director of veterans' homes and housing shall ensure that
149 compliance with the requirements of said subpart of the U.S. code of federal regulations is

150 maintained and that compliance failures are addressed in a timely manner. Should any
151 compliance failures be identified during the annual survey conducted by the division of health
152 care facility licensure and certification, the superintendent in coordination with the executive
153 director shall submit a report to the governor, the secretary of veterans affairs, the secretary of
154 health and human services, the Veterans' Homes Council no later than 30 days after the
155 compliance failures are identified outlining the compliance failures and a plan for taking
156 corrective action.

157 (b) The superintendent of each state-operated veterans' home, in coordination with the
158 executive director of veterans' homes and housing, shall ensure that the home adheres to
159 guidelines for trauma-informed care as outlined by the U.S. Centers for Disease Control and
160 Prevention.

161 Section 16. The superintendent of each state-operated veterans' home, in coordination
162 with the executive director of veterans' homes and housing, shall conduct a yearly review of the
163 homes' health record system and assure the home is equipped with the prevailing technology of
164 the time to best serve the veteran and their family's access to records. A copy of the review shall
165 be sent to the governor, the president of the senate, the speaker of the house, the senate and the
166 house committees on ways and means, and the chairs of the joint committee on veterans and
167 federal affairs.

168

169 SECTION 6. The General Laws are hereby amended by inserting after chapter 115A the
170 following new chapter:-

171 Chapter 115B.

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

174 "Nominating committee", the nominating committee established in section 3.

175 "Veteran advocate", the veteran advocate appointed under section 3.

176 "Executive agency", a state agency within the office of the governor, including the
177 executive office of education, the executive office of public safety and security, executive office
178 of health and human services, and their constituent agencies, the Massachusetts interagency
179 council on housing and homelessness and the executive office of housing and economic
180 development.

181 "Office", the office of the veteran advocate.

182 Section 2. There shall be an office of the veteran advocate which shall be independent of
183 any supervision or control by any executive agency. The office shall:

184 (a) ensure that veterans in the care of the commonwealth or receiving services under the
185 supervision of an executive agency in any public or private facility shall receive humane and
186 dignified treatment at all times, with full respect for the veteran's personal dignity and right to
187 privacy;

188 (b) ensure that veterans in the care of the commonwealth or receiving services under the
189 supervision of an executive agency in any public or private facility shall receive timely, safe and
190 effective services;

191 (c) aid and coordinate with local veterans service officers to ensure veterans are receiving
192 all state and federal benefits available;

193 (d) examine, on a system-wide basis, the care and services that executive agencies
194 provide veterans;

195 (e) advise the public and those at the highest levels of state government about how the
196 commonwealth may improve its services to and for veterans and their families;

197 (f) develop internal procedures appropriate for the effective performance of their duties’

198 (g) act as a liaison to all state agencies providing services to veterans to ensure the
199 veteran receives the necessary services and care;

200 (h) assist in developing procedures for the agency to best serve the veteran community;

201 (i) act as a liaison to the department of veteran affairs and all other relevant federal
202 agencies to advocate on behalf of the veterans of the commonwealth;

203 and

204 (j) investigate individual incidents where a veteran or veterans have suffered a fatality,
205 near fatality or serious bodily or emotional injury while receiving services from an executive
206 agency or a constituent agency; or circumstances which result in a reasonable belief that an
207 executive agency or a constituent agency failed in its duty to care for a veteran and, as a result,
208 the veteran was at imminent risk of, or suffered serious bodily or emotional injury or death.

209 Section 3. The office of the veteran advocate shall be under the direction of the veteran
210 advocate. The veteran advocate shall be the administrative head of the office and shall devote
211 full-time to the duties of the office. The veteran advocate shall be appointed by a majority vote of
212 the attorney general, the state auditor and the governor from a list of 3 nominees submitted by a
213 nominating committee to recommend a veteran advocate. The nominating committee shall

214 consist of: the secretary of health and human services, or a designee, who shall serve as chair; the
215 secretary of veterans' affairs, or a designee; the secretary of public safety, or a designee; the
216 commissioner of mental health, or a designee; the house and senate chairs of the joint committee
217 on veterans and federal affairs; the adjutant general of the Massachusetts national guard; a
218 representative of the veterans of foreign wars department of Massachusetts ; a representative of
219 the American legion department of Massachusetts; the chairperson of the board of trustees of the
220 veterans' home in Chelsea; and the chairperson of the board of trustees of the veterans' home in
221 Holyoke. The nominating committee shall submit salary recommendations for the candidates
222 commensurate with the candidates experience and other similar state positions. The work of the
223 nominating committee shall be coordinated by the executive office of health and human services.

224 Any person appointed to the position of veteran advocate shall be selected without regard
225 to political affiliation and on the basis of integrity and demonstrated ability in veteran welfare,
226 justice, auditing, law, health care, management analysis, public administration and investigation
227 or criminal justice administration. The veteran advocate may, subject to appropriation, appoint
228 such other personnel as the veteran advocate deems necessary for the efficient management of
229 the office.

230 The veteran advocate shall serve for a term of 5 years. In the case of a vacancy in the
231 position of the veteran advocate, a successor shall be appointed in the same manner for the
232 remainder of the unexpired term. No person shall be appointed as veteran advocate for more than
233 2 full terms.

234 The veteran advocate may be removed from office for cause by a majority vote of the
235 attorney general, the state auditor and the governor. Such cause may include substantial neglect

236 of duty, gross misconduct or conviction of a crime. The cause for removal of the veteran
237 advocate shall be stated in writing and shall be sent to the clerks of the senate and house of
238 representatives and to the governor at the time of removal and shall be a public document.

239 Section 4. The veterans advocate shall report annually to the governor, the president of
240 the senate, the speaker of the house, the senate and the house committees on ways and means,
241 and the chairs of the joint committee on veterans and federal affairs on the activities of the office,
242 including an analysis of the delivery of service to veterans and recommendations for changes in
243 agency procedures which would enable the commonwealth to better provide services to and for
244 veterans and their families and priorities for implementation of those changes to services. The
245 report shall be made public.