
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2180 Session of
2014

INTRODUCED BY BIZZARRO, FLYNN, NEILSON, SCHREIBER, FARINA,
KOTIK, KORTZ, GAINNEY, SCHLOSSBERG, O'BRIEN, BROWNLEE,
R. MILLER, JAMES, GOODMAN, HAGGERTY, KAVULICH, LUCAS,
D. COSTA, GROVE, YOUNGBLOOD, MCNEILL, MURT, WATSON, MOLCHANY,
GILLEN, FRANKEL, PASHINSKI, MATZIE, J. HARRIS, WHITE,
DAVIDSON, BROOKS, BARBIN AND HENNESSEY, APRIL 14, 2014

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 14, 2014

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for veterans
3 and service member courts.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 42 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 918. Veterans and service member courts.

9 (a) Establishment.--The president judge of each court of
10 common pleas shall establish, in consultation with the district
11 attorney, a veterans and service member court for veterans and
12 service members charged with a misdemeanor or felony offense,
13 other than a crime of violence. The court shall be established
14 using available funds.

15 (b) Discretion of president judge.--At the discretion of the
16 president judge, the court shall be a separate court or problem-

1 solving court, within the court of common pleas.

2 (c) Local rules.--The court shall adopt local rules for the
3 administration of the court and its related treatment services.

4 The local rules must be consistent with this section and the
5 rules established by the Supreme Court of Pennsylvania.

6 (d) Existing courts.--If a court of common pleas established
7 a veterans and service member court before the effective date of
8 this section, the veterans and service member court shall
9 continue and is not subject to this section.

10 (e) Eligibility.--A defendant is eligible for participation
11 in a court if:

12 (1) the defendant agrees to plead guilty to the charges;

13 (2) the prosecutor consents to the defendant's
14 participation; and

15 (3) the court finds that the defendant:

16 (i) is a veteran or current member of the United
17 States Armed Forces, including the reserves, National
18 Guard or State guard; and

19 (ii) suffers from a brain injury, mental illness or
20 mental disorder, including post-traumatic stress
21 disorder, that:

22 (A) resulted from the defendant's military
23 service in a combat zone or other similar hazardous
24 duty area; and

25 (B) materially affected the defendant's criminal
26 conduct at issue in the case.

27 (f) Exclusion.--A defendant shall be excluded from a court
28 if any of the following apply:

29 (1) The crime committed is a crime of violence.

30 (2) The defendant does not demonstrate a willingness to

1 participate in a treatment program.

2 (3) The defendant previously participated in or was
3 discharged from a veterans and service member court.

4 (g) Verification.--Proof of matters described in subsections
5 (e) and (f) may be submitted to the court in which the criminal
6 case is pending in a form the court determines to be
7 appropriate, including:

8 (1) a military service or medical record;

9 (2) a previous determination of a disability by a
10 veteran's organization or by the United States Department of
11 Veterans Affairs;

12 (3) testimony or an affidavit of other veterans or
13 service members; and

14 (4) a prior determination of eligibility for benefits by
15 a State or county veterans office.

16 The court's findings must accompany a docketed case.

17 (h) Procedure.--The following apply:

18 (1) The court shall order the defendant to submit to a
19 mental health and drug and alcohol screening and assessment
20 through the United States Department of Veterans Affairs or
21 the department. A report based on the mental health and drug
22 and alcohol screening and assessment shall be submitted to
23 the court and shall include treatments and rehabilitative
24 interventions for the defendant for consideration by the
25 court or correctional programs. A mental health and drug and
26 alcohol screening and assessment may not be ordered if the
27 court finds that the defendant has undergone a screening and
28 assessment within the previous 60 days.

29 (2) The court shall inform the defendant that if the
30 defendant fails to meet the conditions of the court,

1 eligibility to participate in the court shall be revoked and
2 the defendant shall be sentenced as provided under the law.

3 (3) The defendant shall execute a written agreement with
4 the court as to his participation in the court and shall
5 agree to the terms and conditions of the court, including the
6 possibility of sanctions or incarceration for failing to
7 abide by or comply with the terms of the court.

8 (4) In addition to any other conditions authorized under
9 law, the court shall order the defendant to complete the
10 treatment recommendations. A failure by the defendant to
11 complete the treatment recommendations may result in the
12 defendant being charged with sanctions, removal from the
13 court and incarceration.

14 (i) Mental health and substance abuse treatment.--The
15 following apply:

16 (1) The court shall collaborate with a network of
17 substance abuse treatment programs representing a continuum
18 of graduated substance abuse treatment options commensurate
19 with the needs of defendants, including programs with the
20 United States Department of Veterans Affairs, the
21 Commonwealth, the department and community-based programs.

22 (2) The court shall collaborate with a network of mental
23 health treatment programs representing a continuum of
24 treatment options commensurate with the needs of the
25 defendant and available resources, including programs with
26 the Department of Veterans Affairs, the Commonwealth, the
27 department and community-based programs.

28 (3) The court shall employ additional services or
29 interventions as it deems necessary on a case-by-case basis.

30 (j) Violations, termination and discharge.--

1 (1) The court shall impose reasonable sanctions under
2 the written agreement executed under subsection (h) (3),
3 including incarceration or dismissal of the defendant from
4 the court, if the court finds from the evidence presented,
5 including a report or proffer of proof, from a court
6 professional, that the defendant:

7 (i) is not performing satisfactorily in the assigned
8 treatment and rehabilitative interventions;

9 (ii) is not benefiting from education, treatment or
10 rehabilitation;

11 (iii) engaged in criminal conduct rendering him
12 unsuitable for the court; and

13 (iv) otherwise violated the terms and conditions of
14 the court or his sentence or is unable to participate for
15 any reason.

16 (2) Upon successful completion of the terms and
17 conditions of the court, the court shall:

18 (i) dismiss the original charges against the
19 defendant; and

20 (ii) terminate the defendant's sentence or otherwise
21 discharge the defendant from further proceedings against
22 him in the original prosecution.

23 (k) Funding.--The following apply:

24 (1) A court shall collect from a participant in the
25 court:

26 (i) a fee of \$1,000; and

27 (ii) a testing, counseling and treatment fee in an
28 amount necessary to cover the costs of testing,
29 counseling or treatment performed or provided under the
30 supervision of the court.

1 (2) At the discretion of the judge administering the
2 program, a fee collected under this section may be paid on a
3 periodic basis or a deferred payment schedule.

4 (3) A fee collected under this subsection may only be
5 used for a purpose specific to the court.

6 (1) Definitions.--As used in this section, the following
7 words and phrases shall have the meanings given to them in this
8 subsection unless the context clearly indicates otherwise:

9 "Court." The veterans and service member court established
10 under this section.

11 "Court professional." A prosecutor, defense attorney,
12 probation officer or treatment provider involved with a program
13 supervised by the court.

14 "Crime of violence." An offense under any of the following:

15 (1) 18 Pa.C.S. § 2502 (relating to murder);

16 (2) 18 Pa.C.S. § 2701 (relating to simple assault);

17 (3) 18 Pa.C.S. § 3121 (relating to rape);

18 (4) 18 Pa.C.S. § 3124.1 (relating to sexual assault);

19 and

20 (5) 18 Pa.C.S. § 3701 (relating to robbery).

21 "Department." The Department of Military and Veterans
22 Affairs.

23 "Service member." A person who is currently serving in the
24 Army, Air Force, Marines, Navy or Coast Guard on active duty,
25 reserve status or in the National Guard.

26 "Veteran." A person who served in the armed forces and was
27 discharged or released from service under conditions that were
28 not dishonorable.

29 Section 2. This act shall take effect in 120 days.