

SENATE No. 01836

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 passage of the accompanying bill:

An Act relative to substance abuse services for veterans.

PETITION OF:

NAME:

Steven A. Tolman

DISTRICT/ADDRESS:

Second Suffolk and Middlesex

SENATE No. 01836

By Mr. Tolman, petition (accompanied by bill, Senate, No. 1836) of Tolman for legislation relative to substance abuse services for veterans [Joint Committee on 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.

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

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

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

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

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

21 (4) gifts and grants contributed to the fund;

22 (5) the earnings of the fund; and

23 (6) fees collected under Section 9.

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

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

27 (2) enhance or improve veterans' assistance programs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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