

LEGISLATIVE REFERENCE BUREAU

L.R.B. Form No. 4 (Rev. 3/25/10)

2013D07631LKK:CDM

No. _____

LEGISLATIVE REFERENCE BUREAU

AN ACT

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in organization and jurisdiction of courts of common pleas, providing for veterans and servicemembers court.

INTRODUCED _____ 20 _____

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

See next page for additional co-sponsors.

Referred to Committee on	
Date _____	20 _____
Reported _____	20 _____
As Committed-Amended	
Recommendation	

By Hon. _____	

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in organization and
3 jurisdiction of courts of common pleas, providing for
4 veterans and servicemembers court.

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

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

9 § 918. Veterans and servicemembers court.

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

15 (1) Be known as the Veterans and Servicemembers Court.

16 (2) At the discretion of the president judge, be a
17 separate court or a problem-solving court within the court of
18 common pleas.

1 (3) Adopt local rules for the administration of the
2 court and the court's related treatment services. The local
3 rules shall be consistent with this section or a rule
4 established by the Supreme Court of Pennsylvania.

5 (b) Existing veteran and servicemember court program.--If a
6 court of common pleas has established a court described in
7 subsection (a) before the effective date of this section, the
8 program shall continue and shall not be subject to this section.

9 (c) Eligibility.--A defendant shall be eligible for
10 participation in the court if:

11 (1) The defendant agrees to plead guilty to all charges.

12 (2) The prosecutor consents to the defendant's
13 participation.

14 (3) The court finds that the defendant meets all of the
15 following:

16 (i) Is a veteran or current member of the United
17 States armed forces, including a member of the Reserves,
18 National Guard, or State guard.

19 (ii) Suffers from a brain injury, mental illness or
20 mental disorder, including post-traumatic stress
21 disorder, that meets all of the following:

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

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

27 (d) Exclusion.--A defendant shall be excluded from the 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 has previously participated in or been
3 discharged from the court.

4 (e) Verification.--

5 (1) Proof of the criteria required in subsections (c)
6 and (d) may be submitted to the original court in which the
7 criminal case is pending in a form the original court
8 determines to be appropriate, including:

9 (i) Military service.

10 (ii) Medical records.

11 (iii) Previous determinations of a disability by a
12 veteran's organization or by the United States Department
13 of Veterans Affairs.

14 (iv) Testimony or affidavit of another veteran or
15 service member.

16 (v) Prior determinations of eligibility for benefits
17 by a State or county veterans office.

18 (2) The original court's findings must accompany a
19 docketed case.

20 (f) Procedure.--

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

1 assessment within the previous 60 days.

2 (2) The court shall inform the defendant that if the
3 defendant fails to meet the conditions of the court,
4 eligibility to participate in the court shall be revoked and
5 the defendant shall be sentenced as otherwise provided under
6 the law.

7 (3) The defendant shall execute a written agreement with
8 the court as to the defendant's participation in the court
9 and shall agree to all of the terms and conditions of the
10 court, including the possibility of sanctions or
11 incarceration for failing to abide or comply with the terms
12 of the court.

13 (4) In addition to the conditions authorized under law,
14 the court shall order the defendant to complete the
15 recommended treatment.

16 (g) Mental health and substance abuse treatment.--

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

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

29 (3) The court shall employ an additional service or
30 intervention as deemed necessary on a case-by-case basis.

1 (h) Violation, termination and discharge.--

2 (1) If the court finds from the evidence presented,
3 including the report or a proffer of proof from the court
4 professionals, that any of the following apply, the court
5 shall impose reasonable sanctions under prior written
6 agreement of the defendant, including incarceration or
7 dismissal of the defendant from the court:

8 (i) The defendant is not performing satisfactorily
9 in the assigned treatment and rehabilitative
10 interventions.

11 (ii) The defendant is not benefiting from education,
12 treatment or rehabilitation.

13 (iii) The defendant has engaged in criminal conduct
14 rendering the defendant unsuitable for the court.

15 (iv) The defendant has violated the terms and
16 conditions of the court or the sentence or is unable to
17 participate.

18 (2) Upon successful completion of the terms and
19 conditions of the court, the court shall dismiss the original
20 charges against the defendant, successfully terminate the
21 defendant's sentence or otherwise discharge the defendant
22 from further proceedings against the defendant in the
23 original prosecution.

24 (i) Funding.--

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

27 (i) A fee of \$1,000.

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

1 court.

2 (2) Fees collected under this section may be paid on a
3 periodic basis or on a deferred payment schedule at the
4 discretion of the judge administering the program.

5 (3) The fees collected under this subsection may only be
6 used for purposes specific to the court.

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

10 "Court." A veterans and servicemembers court.

11 "Crime of violence." The following criminal offenses:

12 (1) 18 Pa.C.S. § 2502 (relating to murder).

13 (2) 18 Pa.C.S. § 2701 (relating to simple assault).

14 (3) 18 Pa.C.S. § 3121 (relating to rape).

15 (4) 18 Pa.C.S. § 3124.1 (relating to sexual assault).

16 (5) 18 Pa.C.S. § 3701 (relating to robbery).

17 "Department." The Department of Military and Veterans
18 Affairs.

19 "Servicemember." A person who is currently serving in the
20 Army, Air Force, Marines, Navy or Coast Guard on active duty,
21 reserve status or in the National Guard.

22 "Veteran." A person who served in the active military, naval
23 or air service and who was discharged or released from service
24 under conditions other than dishonorable.

25 "Veterans and servicemembers court professional." A
26 prosecutor, defense attorney, probation officer or treatment
27 provider involved with the court program.

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