
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 887 Session of
2017

INTRODUCED BY BIZZARRO, READSHAW, SCHWEYER, MATZIE, CALTAGIRONE,
ROZZI, MURT, KINSEY, V. BROWN, GAINEY, DEAN, O'BRIEN,
DRISCOLL, BOBACK, MULLERY, GOODMAN, DEASY, SAINATO, WATSON,
FLYNN, GILLEN, McNEILL, McCLINTON, FARRY, NEILSON, SOLOMON,
KORTZ, DAVIDSON AND D. COSTA, MARCH 16, 2017

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 16, 2017

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in courts of common
3 pleas, providing for veterans 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 of the county, a veterans and service member court for
12 veterans and service members charged with a misdemeanor or
13 felony offense other than a crime of violence. The court shall
14 be established using available funds.

15 (b) Joint court.--Two or more president judges may jointly
16 form a veteran and service member court in consultation with the
17 district attorney from each county represented by the joint

1 court.

2 (c) Discretion of president judge.--At the discretion of the
3 president judge, the court shall be either a separate court or
4 problem-solving court within the court of common pleas.

5 (d) Local rules.--The court shall adopt local rules for the
6 administration of the court and its related treatment services.
7 The local rules must be consistent with this section and the
8 rules established by the Supreme Court of Pennsylvania.

9 (e) Existing courts.--If a court of common pleas has an
10 existing veterans and service member court before the effective
11 date of this section, the veterans and service member court
12 shall continue and is not subject to this section.

13 (f) Eligibility.--A defendant is eligible for participation
14 in a court if:

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

16 (2) the prosecutor consents to the defendant's
17 participation; and

18 (3) the court finds that the defendant:

19 (i) is a veteran or current member of the United
20 States Armed Forces, including the reserves, National
21 Guard or Pennsylvania National Guard; and

22 (ii) suffers from a brain injury, mental illness or
23 mental disorder, including post-traumatic stress
24 disorder, that:

25 (A) resulted from the defendant's military
26 service in a combat zone or other similar hazardous
27 duty area; and

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

30 (g) Exclusion.--A defendant shall be excluded from a court

1 if any of the following applies:

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

3 (2) The defendant does not demonstrate a willingness to
4 participate in a treatment program.

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

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

11 (1) a military service or medical record;

12 (2) a previous determination of a disability by a
13 veterans' organization or by the United States Department of
14 Veterans Affairs;

15 (3) testimony or an affidavit of other veterans or
16 service members; and

17 (4) a prior determination of eligibility for benefits by
18 a State or county veterans' office.

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

20 (i) Procedure.--The following apply:

21 (1) The court shall order the defendant to submit to a
22 mental health and 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 and drug
25 and alcohol screening and assessment shall be submitted to
26 the court and shall include treatments and rehabilitative
27 interventions for the defendant for consideration by the
28 court or correctional programs. A mental health and drug and
29 alcohol screening and assessment may not be ordered if the
30 court 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 provided under the law.

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

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

17 (j) Mental health and substance abuse treatment.--The
18 following apply:

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

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

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

3 (k) Violations, termination and discharge.--

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

10 (i) is not performing satisfactorily in the assigned
11 treatment and rehabilitative interventions;

12 (ii) is not benefiting from education, treatment or
13 rehabilitation;

14 (iii) engaged in criminal conduct rendering him
15 unsuitable for the court; and

16 (iv) otherwise violated the terms and conditions of
17 the court or his sentence or is unable to participate for
18 any reason.

19 (2) Upon successful completion of the terms and
20 conditions of the court, the court shall:

21 (i) dismiss the original charges against the
22 defendant; and

23 (ii) terminate the defendant's sentence or otherwise
24 discharge the defendant from further proceedings against
25 him in the original prosecution.

26 (l) Funding.--The following apply:

27 (1) A court shall collect from a participant in the
28 court:

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

30 (ii) a testing, counseling and treatment fee in an

1 amount necessary to cover the costs of testing,
2 counseling or treatment performed or provided under the
3 supervision of the court.

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

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

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

12 "Court." The veterans and service member court established
13 under this section.

14 "Court professional." A prosecutor, defense attorney,
15 probation officer or treatment provider involved with a program
16 supervised by the court.

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

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

19 (2) 18 Pa.C.S. § 2701 (relating to simple assault);

20 (3) 18 Pa.C.S. § 3121 (relating to rape);

21 (4) 18 Pa.C.S. § 3124.1 (relating to sexual assault);

22 and

23 (5) 18 Pa.C.S. § 3701 (relating to robbery).

24 "Department." The Department of Military and Veterans
25 Affairs.

26 "Service member." A person who is currently serving in the
27 armed forces of the United States on active duty or reserve
28 status or in the National Guard.

29 "Veteran." A person who served in the armed forces of the
30 United States and was discharged or released from service under

1 conditions that were not dishonorable.

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