

SENATE No. 02241

Senate, May 1, 2012 -- Recommended new draft from the Senate committee on Ways and Means for the Senate Bill relative to veterans' access, livelihood, opportunity, and resources (Senate, No. 2193)

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to veterans' access, livelihood, opportunity, and resources.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith to provide benefits to certain veterans and servicemembers, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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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. Section 61 of chapter 7 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by striking out the words “minority and women”, in lines 32
3 and 33, 37 and 64 and inserting in place thereof, in each instance, the following words:-
4 minority, women and veteran.

5 SECTION 2. Said section 61 of said chapter 7, as so appearing, is hereby further
6 amended by striking out subsection (h) and inserting in place thereof the following subsection:-

7 (h) SDO shall seek to encourage voluntary assistance programs by which nonminority,
8 non-women and non-veteran business employees are loaned to minority, women and veteran
9 businesses or by which minority, women and veteran business persons are taken into viable
10 business ventures to acquire training and experience in managing business affairs.

11 SECTION 3. Said section 61 of said chapter 7, as so appearing, is hereby further
12 amended by inserting after subsection (i) the following subsection:-

13 (i½) SDO shall conduct outreach to service-disabled veteran-owned small businesses
14 interested in and capable of providing construction and design services on public construction
15 and design projects to encourage and facilitate participation on public projects. For the purposes
16 of this subsection, “service-disabled veteran-owned small business” shall mean a business that is
17 verified by the federal government’s Department of Veterans Affairs pursuant to the Veterans
18 Benefits, Health Care, and Information Technology Act of 2006, Pub. L. 109-461, and
19 determined to be a service-disabled veteran-owned small business concern in accordance with 38
20 CFR Part 74 and Pub. L. 111-275.

21 SECTION 4. Section 35CC of chapter 10 of the General Laws, as so appearing, is
22 hereby amended by inserting, after the word “families”, in line 6, the following words:- ,
23 including immediate family members of certain active duty members of the armed forces who
24 were killed in action, so-called Gold Star Families,.

25 SECTION 5. Chapter 15A of the General Laws is hereby amended by adding the
26 following section:-

27 Section 42. (a) The council shall develop and adopt a written policy requiring each public
28 institution of higher education to develop a set of policies and procedures governing the

29 evaluation of a student's military occupation or occupations, military training, coursework and
30 experience, to determine whether academic credit shall be awarded by the institution for the
31 evaluated occupation or occupations, experience, training and coursework. The council's policy
32 may require that the occupation or occupations, training, experience or courses meet the
33 standards of the American Council on Education or equivalent standards for awarding academic
34 credit. The educational credit shall be awarded based upon each institution's admissions
35 standards and shall be consistent with the mission of the commonwealth's system of public
36 higher education, as defined by the council under section 1. Each public institution of higher
37 education shall designate a single point of contact for a student who is enrolled in such an
38 institution and who is also a veteran, as defined in clause Forty-third of section 7 of chapter 4 to
39 conduct such an evaluation and determination.

40 (b) The council shall consult with the chief executive officers of each public institution of
41 higher education in implementing the policy set forth in subsection (a) and the policy adopted by
42 the council shall, to the greatest extent possible, provide for consistent application by all the
43 commonwealth's public institutions of higher education and promote accurate and complete
44 academic counseling.

45 SECTION 6. The General Laws are hereby amended by inserting after chapter 15D the
46 following chapter:-

47 Chapter 15E

48 Interstate Compact on Educational Opportunity for Military Children

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

51 “Active duty”, full-time duty status in the active uniformed service of the United States,
52 including members of the National Guard and Reserve on active duty orders pursuant to 10
53 U.S.C. section 1209 and 1211.

54 “Children of military families”, a school-aged child, enrolled in kindergarten through
55 grade 12, in the household of an active duty member.

56 "Compact commissioner”, the voting representative of each compacting state appointed
57 pursuant to section 7 of this compact.

58 “Deployment”, the period 1 month prior to the service members’ departure from the
59 members’ home station on military orders to 6 months after returning to the members’ home
60 station.

61 “Education records”, those official records, files and data directly related to a student and
62 maintained by the school or local education agency, including, but not limited to, records
63 encompassing all the material kept in the student's cumulative folder such as general identifying
64 data, records of attendance and of academic work completed, records of achievement and results
65 of evaluative tests, health data, disciplinary status, test protocols and individualized education
66 programs.

67 “Extracurricular activities”, a voluntary activity sponsored by the school or local
68 education agency or an organization sanctioned by the local education agency. Extracurricular
69 activities include, but are not limited to, preparation for and involvement in public performances,
70 contests, athletic competitions, demonstrations, displays and club activities.

71 “Interstate commission on educational opportunity for military children” or “interstate
72 commission”, the commission that is created under section 9 of this compact.

73 “Local education agency”, a public authority legally constituted by the state as an
74 administrative agency to provide control of and direction for kindergarten through grade 12
75 public educational institutions.

76 “Member state”, a state that has enacted this compact.

77 “Military installation”, a base, camp, post, station, yard, center, homeport facility for any
78 ship or other activity under the jurisdiction of the Department of Defense, including any leased
79 facility, which is located within any of the several states, the District of Columbia, the
80 commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the
81 Northern Marianas Islands and any other United States territory. Such term does not include any
82 facility used primarily for civil works, rivers and harbors projects or flood control projects.

83 “Non-member state”, a state that has not enacted this compact.

84 “Receiving state”, the state to which a child of a military family is sent, brought or caused
85 to be sent or brought.

86 “Rule”, a written statement by the interstate commission promulgated under section 12 of
87 this compact that is of general applicability, implements, interprets or prescribes a policy or
88 provision of the compact or an organizational, procedural or practice requirement of the
89 interstate commission and has the force and effect of statutory law in a member state, and
90 includes the amendment, repeal or suspension of an existing rule.

91 “Sending state”, the state from which a child of a military family is sent, brought or
92 caused to be sent or brought.

93 “State”, a state of the United States, the District of Columbia, the commonwealth of
94 Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas
95 Islands and any other United States territory.

96 “Student”, the child of a military family for whom the local education agency receives
97 public funding and who is formally enrolled in kindergarten through grade 12.

98 “Transition”, the formal and physical process of transferring from school to school or the
99 period of time in which a student moves from one school in the sending state to another school in
100 the receiving state.

101 “Uniformed services”, the Army, Navy, Air Force, Marine Corps, Coast Guard, including
102 the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public
103 Health Services.

104 “Veteran”, a person who served in the uniformed services and who was discharged or
105 released from service under conditions other than dishonorable.

106 Section 2. (a) Except as otherwise provided in subsection (b), this compact shall apply to
107 the children of:

108 (1) active duty members of the uniformed services;

109 (2) members or veterans of the uniformed services who are severely injured and
110 medically discharged or retired for a period of 1 year after medical discharge or retirement; and

111 (3) members of the uniformed services who die on active duty or as a result of
112 injuries sustained on active duty for a period of 1 year after death.

113 (b) This interstate compact shall only apply to local education agencies.

114 (c) This compact shall not apply to the children of:

115 (1) inactive members of the national guard and military reserves;

116 (2) members of the uniformed services now retired, except as provided in
117 subsection (a);

118 (3) veterans of the uniformed services, except as provided in subsection (a); and

119 (4) other United States Department of Defense personnel and other federal agency
120 civilian and contract employees not defined as active duty members of the uniformed services.

121 Section 3. (a) If official education records cannot be released to the parents for the
122 purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to
123 the parent a complete set of unofficial education records containing uniform information as
124 determined by the interstate commission. Upon receipt of the unofficial education records by a
125 school in the receiving state, the school shall enroll and appropriately place the student based on
126 the information provided in the unofficial records, pending validation by the official records, as
127 soon as possible.

128 (b) Simultaneous with the enrollment and conditional placement of the student, the
129 school in the receiving state shall request the student's official education records from the school
130 in the sending state. Upon receipt of this request, the school in the sending state shall process and

131 furnish the official education records to the school in the receiving state within 10 days or within
132 the time as is reasonably determined under the rules promulgated by the interstate commission.

133 (c) Compacting states shall give 30 days from the date of enrollment or within the time as
134 is reasonably determined under the rules promulgated by the interstate commission for students
135 to obtain any immunizations required by the receiving state. For a series of immunizations, initial
136 vaccinations shall be obtained within 30 days or within the time as is reasonably determined
137 under the rules promulgated by the interstate commission.

138 (d) Students shall be allowed to continue enrollment at the grade level in the receiving
139 state that is equal with the grade level from the local education agency in the sending state at the
140 time of transition, regardless of age. A student that has satisfactorily completed the prerequisite
141 grade level in the local education agency in the sending state shall be eligible for enrollment in
142 the next highest grade level in the receiving state, regardless of age. A student transferring after
143 the start of the school year in the receiving state shall enter the school in the receiving state at the
144 level validated by an accredited school in the sending state.

145 Section 4. (a) When a student transfers before or during the school year, the receiving
146 state school shall initially honor placement of the student in educational courses based on the
147 student's enrollment in the sending state school or educational assessments conducted at the
148 school in the sending state if the courses are offered and space is available. Course placement
149 shall include, but not be limited to, honors, international baccalaureate, advanced placement,
150 vocational, technical and career pathways courses. Continuing the student's academic program
151 from the previous school and promoting placement in academically and career challenging
152 courses should be paramount when considering placement. This shall not preclude the school in

153 the receiving state from performing subsequent evaluations to ensure appropriate placement and
154 continued enrollment of the student in the courses.

155 (b) The receiving state school shall initially honor placement of the student in educational
156 programs based on current educational assessments conducted at the school in the sending state
157 or participation or placement in like programs in the sending state. Such programs shall include,
158 but not be limited to: (i) gifted and talented programs; and (ii) English as a second language
159 programs. This shall not preclude the school in the receiving state from performing subsequent
160 evaluations to ensure appropriate placement of the student.

161 (c) In compliance with the federal requirements of the Individuals with Disabilities
162 Education Act (IDEA), 20 U.S.C.A. section 1400 et seq, the receiving state shall initially provide
163 comparable services to a student with disabilities based on the student's: (i) current
164 individualized education program; (ii) in compliance with the requirements of section 504 of the
165 Rehabilitation Act, 29 U.S.C.A. section 794; and (iii) in compliance with title II of the
166 Americans with Disabilities Act, 42 U.S.C.A. sections 12131-12165. The receiving state shall
167 make reasonable accommodations and modifications to address the needs of incoming students
168 with disabilities, subject to an existing 504 or title II plan, to provide the student with equal
169 access to education. This shall not preclude the school in the receiving state from performing
170 subsequent evaluations to ensure appropriate placement of the student.

171 (d) Local education agency administrative officials shall have flexibility in waiving
172 course or program prerequisites or other preconditions for placement in courses or programs
173 offered under the jurisdiction of the local education agency.

174 (e) A student whose parent or legal guardian is an active duty member of the uniformed
175 services and has been called to duty for, is on leave from or immediately returned from
176 deployment to a combat zone or combat support posting, may be granted additional excused
177 absences at the discretion of the local education agency superintendent to visit with that parent or
178 legal guardian on leave or preparing for or returning from deployment.

179 Section 5. (a) The following shall be required to be eligible for enrollment in the
180 receiving state's school:

181 (1) Special power of attorney, relative to the guardianship of a child of a military
182 family and executed under applicable law, shall be sufficient to enroll or take any other action
183 requiring parental participation and consent under this compact.

184 (2) A local education agency shall not charge local tuition to a transitioning
185 military child placed in the care of a non-custodial parent or other person standing in loco
186 parentis who lives in a jurisdiction other than that of the custodial parent.

187 (3) A transitioning military child placed in the care of a non-custodial parent or
188 other person standing in loco parentis who lives in a jurisdiction other than that of the custodial
189 parent, may continue to attend the school in which the child was enrolled while residing with the
190 custodial parent.

191 (b) State and local education agencies shall facilitate the opportunity for transitioning
192 military children's inclusion in extracurricular activities, regardless of application deadlines, to
193 the extent the children are otherwise qualified.

194 Section 6. To facilitate the on-time graduation of children of military families, state and
195 local education agencies shall incorporate the following procedures:

196 (a) Local education agency administrative officials shall waive specific courses required
197 for graduation if similar course work has been satisfactorily completed in another local education
198 agency or shall provide reasonable justification for denial. Should a waiver not be granted to a
199 student who would otherwise qualify to graduate from the sending school, the local education
200 agency shall provide an alternative means of acquiring required coursework so that graduation
201 may occur on time.

202 (b) Receiving states may accept exit or end-of-course exams required for graduation from
203 the sending state or national norm-referenced achievement tests or alternative testing, in lieu of
204 testing requirements for graduation in the receiving state; require the student to take scheduled
205 exit test in the receiving state, if the student is able to take the tests prior to the end of grade 12;
206 or accept evidence or information from the sending or receiving district that demonstrates that
207 the student has met the receiving state's graduation standard, either through a transcript of
208 courses taken and grades received from the sending and or receiving district; a portfolio of work
209 samples for the student that addresses the required high school standards; standardized norm-
210 referenced test results in the subject required by the receiving state for graduation; or other
211 relevant information.

212 (c) Should a military student transferring at the beginning or during grade 12 be ineligible
213 to graduate from the receiving local education agency after all alternatives in subsection (b) have
214 been considered, the sending and receiving local education agencies shall ensure the receipt of a
215 diploma from the sending local education agency if the student meets the graduation

216 requirements of the sending local education agency. In the event that either the transferring or
217 receiving state is not a member of this compact, the member state shall use best efforts to
218 facilitate the on-time graduation of the student under subsections (a) and (b).

219 Section 7. (a) Each member state shall, through the creation of a state council or use of an
220 existing body or board, provide for the coordination among its agencies of government, local
221 education agencies and military installations concerning the state's participation in and
222 compliance with this compact and interstate commission activities. While each member state
223 may determine the membership of its own state council, the membership shall include at least: (i)
224 the state secretary of education; (ii) a superintendent of a school district with a high
225 concentration of military children; (iii) a representative from a military installation; (iv) 1
226 representative from the legislature; (v) 1 representative from the executive branch; and (vi) other
227 offices and stakeholder groups that the state council deems appropriate. A member state that
228 does not have a school district deemed to contain a high concentration of military children may
229 appoint a superintendent from another school district to represent local education agencies on the
230 state council.

231 (b) The state council of each member state shall appoint or designate a military family
232 education liaison to assist military families and the state in facilitating the implementation of this
233 compact.

234 (c) The compact commissioner responsible for the administration and management of the
235 state's participation in the compact shall be appointed by the governor or as otherwise
236 determined by each member state.

237 (d) The compact commissioner and the military family education liaison designated
238 under this compact shall be ex-officio members of the state council, unless either is already a full
239 voting member of the state council.

240 Section 8. The compacting states hereby create the interstate commission on educational
241 opportunity for military children. The activities of the interstate commission are the formation of
242 public policy and are a discretionary state function. The interstate commission shall:

243 (a) be a body corporate and joint agency of the member states and shall have all the
244 responsibilities, powers and duties set forth in this compact and additional powers as may be
245 conferred upon it by a subsequent concurrent action of the respective legislatures of the member
246 states under the terms of this compact;

247 (b) consist of 1 interstate commission voting representative from each member state who
248 shall be that state's compact commissioner;

249 (c) entitle each member state represented at a meeting of the interstate commission to 1
250 vote;

251 (d) require a majority of the total member states to constitute a quorum for the transaction
252 of business, unless a larger quorum is required by the by-laws of the interstate commission;

253 (e) prohibit the delegation of a vote from 1 member state to another member state,
254 provided, that in the event the compact commissioner is unable to attend a meeting of the
255 interstate commission, the governor or state council may delegate voting authority to another
256 person from their state for a specified meeting;

257 (f) allow the by-laws to provide for meetings of the interstate commission to be
258 conducted by telecommunication or electronic communication;

259 (g) consist of ex-officio, non-voting representatives who are members of interested
260 organizations, as defined in the by-laws, which may include, but shall not be limited to, members
261 of the representative organizations of military family advocates, local education agency officials,
262 parent and teacher groups, the United States Department of Defense, the Education Commission
263 of the States, the Interstate Agreement on the Qualification of Educational Personnel and other
264 interstate compacts affecting the education of children of military members;

265 (h) meet at least once each calendar year, provided, that the chairperson may call
266 additional meetings and upon the request of a simple majority of the member states, shall call
267 additional meetings;

268 (i) establish an executive committee, whose members shall include the officers of the
269 interstate commission and such other members of the interstate commission as determined by the
270 by-laws; provided, that members of the executive committee shall serve a 1-year term and shall
271 be entitled to 1 vote each; provided further, that the executive committee shall have the power to
272 act on behalf of the interstate commission, with the exception of rulemaking during periods when
273 the interstate commission is not in session; provided further, that the executive committee shall
274 oversee the day-to-day activities of the administration of the compact including enforcement and
275 compliance with the compact, its by-laws and rules and other such duties as deemed necessary ;
276 and provided further that the United States Department of Defense shall serve as an ex-officio,
277 non-voting member of the executive committee;

278 (j) establish by-laws and rules that provide for conditions and procedures under which the
279 interstate commission shall make its information and official records available to the public for
280 inspection or copying; provided, that the interstate commission may exempt from disclosure the
281 information or the official records that would adversely affect personal privacy rights or
282 proprietary interests;

283 (k) give public notice of all meetings and all meetings shall be open to the public, except
284 as set forth in the rules or as otherwise provided in the compact; provided, that the interstate
285 commission and its committees may close a meeting, or a portion of a meeting, when the
286 commission or committee determines by a two-thirds vote that an open meeting would likely:

287 (1) relate solely to the interstate commission's internal personnel practices and
288 procedures;

289 (2) disclose matters specifically exempted from disclosure by federal and state
290 statute;

291 (3) disclose trade secrets or commercial or financial information which is
292 privileged or confidential;

293 (4) involve accusing a person of a crime or formally censuring a person;

294 (5) disclose information of a personal nature where disclosure would constitute an
295 unwarranted invasion of personal privacy;

296 (6) disclose investigative records compiled for law enforcement purposes; or

297 (7) relate specifically to the interstate commission's participation in a civil action
298 or other legal proceeding;

299 (l) cause its legal counsel or designee to certify that a meeting may be closed and shall
300 reference each relevant exemptible provision for any meeting or portion of a meeting which is
301 closed under this clause; provided, that the interstate commission shall keep minutes which shall
302 clearly describe all matters discussed in a meeting and shall provide an accurate summary of
303 actions taken and the reasons for those actions, including a description of the views expressed
304 and the record of a roll call vote; provided further, that all documents considered in connection
305 with an action shall be identified in the minutes; and provided further, that all minutes and
306 documents of a closed meeting shall remain under seal, subject to release by a majority vote of
307 the interstate commission;

308 (m) collect standardized data concerning the educational transition of the children of
309 military families under this compact, as directed through its rules which shall specify the data to
310 be collected, the means of collection and data exchange and reporting requirements; provided,
311 that such methods of data collection, exchange and reporting shall, as much as reasonably
312 possible, conform to current technology and coordinate its information functions with the
313 appropriate custodian of records as identified in the by-laws and rules;

314 (n) create a process that permits military officials, education officials and parents to
315 inform the interstate commission of alleged violations of the compact, its rules or when issues
316 subject to the jurisdiction of the compact or its rules are not addressed by the state or local
317 education agency; provided, that this section shall not be construed to create a private right of
318 action against the interstate commission or any member state.

319 Section 9. The interstate commission may:

320 (a) provide for dispute resolution among member states;

321 (b) issue, upon request of a member state, advisory opinions concerning the meaning or
322 interpretation of the interstate compact, its by-laws, rules and actions;

323 (c) enforce compliance with the compact provisions and the rules promulgated by the
324 interstate commission and in the by-laws through the use of all necessary and proper means,
325 including, but not limited to, the use of the judicial process;

326 (d) establish and maintain offices, which shall be located within 1 or more of the member
327 states;

328 (e) purchase and maintain insurance and bonds;

329 (f) borrow, accept, hire or contract for services or personnel;

330 (g) establish and appoint committees including, but not limited to, an executive
331 committee as required by paragraph 9 of subsection (a) of section 8;

332 (h) elect or appoint officers, attorneys, employees, agents or consultants and fix the
333 compensation, define the duties and determine the qualifications for those positions;

334 (i) establish the interstate commission's personnel, policies and programs relating to
335 conflicts of interest, rates of compensation and qualifications of personnel;

336 (j) accept any and all donations and grants of money, equipment, supplies, materials and
337 services and to receive, utilize and dispose of it;

338 (k) lease, purchase, own, hold, improve, use or accept contributions of or donations of
339 any property, real, personal or mixed;

340 (l) sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any
341 property, real, personal or mixed;

342 (m) establish a budget and make expenditures;

343 (n) adopt a seal and by-laws governing the management and operation of the interstate
344 commission;

345 (o) report annually to the legislatures, governors, judiciary and state councils of the
346 member states concerning the activities of the interstate commission during the preceding year
347 and the reports shall include recommendations that may have been adopted by the interstate
348 commission;

349 (p) coordinate education, training and public awareness regarding this compact and its
350 implementation and operation for officials and parents or guardians impacted by this compact;

351 (q) establish uniform standards for the reporting, collecting and exchanging of data;

352 (r) maintain corporate books and records in accordance with the by-laws;

353 (s) perform the functions necessary or appropriate to achieve the purposes of this
354 compact; and

355 (t) provide for the uniform collection and sharing of information between and among
356 member states, schools and military families under this compact.

357 Section 10. (a) The interstate commission shall, by a majority vote of the members
358 present and voting and within 12 months after the first interstate commission meeting, adopt by-

359 laws to govern the conduct that is necessary or appropriate to carry out the purposes of this
360 compact, which shall include, but not be limited to:

361 (1) establishing the fiscal year of the interstate commission;

362 (2) establishing an executive committee and other committees as may be
363 necessary;

364 (3) providing for the establishment of committees and for governing any general
365 or specific delegation of authority or function of the interstate commission;

366 (4) providing reasonable procedures for calling and conducting meetings of the
367 interstate commission and ensuring reasonable notice of each meeting;

368 (5) establishing the titles and responsibilities of the officers and staff of the
369 interstate commission;

370 (6) providing a mechanism for concluding the operations of the interstate
371 commission and the return of surplus funds that may exist upon the termination of this compact
372 after the payment and reserving of all of its debts and obligations; and

373 (7) providing start-up rules for initial administration of the compact.

374 (b) The interstate commission shall, by a majority of the members, elect annually from
375 among its members a chairperson, a vice-chairperson and a treasurer, each of whom shall have
376 the authority and duties specified in the by-laws. The chairperson or, in the chairperson's
377 absence or disability, the vice-chairperson, shall preside at all meetings of the interstate
378 commission. The elected officers shall serve without compensation or remuneration from the
379 interstate commission; provided, that subject to the availability of budgeted funds, the officers

380 shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the
381 performance of their responsibilities as officers of the interstate commission.

382 (c) The executive committee shall have such authority and duties as may be set forth in
383 the by-laws, including, but not limited to: (i) managing the affairs of the interstate commission in
384 a manner consistent with the by-laws and purposes of the interstate commission; (ii) overseeing
385 an organizational structure within the interstate commission and establishing appropriate
386 procedures for the interstate commission to provide for the creation of rules, operating
387 procedures and administrative and technical support functions; and (iii) planning, implementing
388 and coordinating communications and activities with other state, federal and local government
389 organizations in order to advance the goals of the interstate commission.

390 (d) The executive committee may, subject to the approval of the interstate commission,
391 appoint or retain an executive director for a period, during which the terms, conditions and
392 compensation shall be set by the interstate commission. The executive director shall serve as
393 secretary to the interstate commission, but shall not be a member of the interstate commission.
394 The executive director shall hire and supervise other personnel when authorized by the interstate
395 commission.

396 (e) The interstate commission's executive director and employees shall be immune from
397 suit and liability, either personally or in their official capacity, for a claim for damage to or loss
398 of property, personal injury or other civil liability caused by, arising out of or relating to an
399 actual or alleged act, error or omission that occurred, or that the person had a reasonable basis for
400 believing occurred, within the scope of interstate commission employment, duties or
401 responsibilities; provided, that the interstate commission's executive director and employees

402 shall not be protected from suit or liability for damage, loss, injury or liability caused by the
403 intentional or willful and wanton misconduct of such person.

404 (f) The liability of the interstate commission's executive director, employees or
405 representatives for acts, errors or omissions that occur while acting within the scope of
406 employment and within the person's state may not exceed the limits of liability set forth under
407 the constitution and laws of that state for state officials, employees and agents. The interstate
408 commission is considered to be an instrumentality of the states for the purposes of any such
409 action. Nothing in this subsection shall be construed to protect the person from suit or liability
410 for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of
411 such person.

412 (g) The interstate commission shall defend the executive director and its employees and,
413 subject to the approval of the attorney general or other appropriate legal counsel of the member
414 state represented by an interstate commission, shall defend interstate commission representatives
415 in any civil action seeking to impose liability arising out of an actual or alleged act, error or
416 omission that occurred within the scope of interstate commission employment, duties or
417 responsibilities, or that the defendant had a reasonable basis for believing occurred within the
418 scope of interstate commission employment, duties or responsibilities; provided, however, that
419 the actual or alleged act error or omission did not result from intentional or willful and wanton
420 misconduct on the part of such person.

421 (h) To the extent that representatives and employees of the interstate commission are not
422 covered by the state involved, the member state or the interstate commission, that representative
423 or employee shall be held harmless in the amount of a settlement or judgment, including

424 attorney's fees and costs, obtained against such persons arising out of an actual or alleged act,
425 error or omission that occurred within the scope of interstate commission employment, duties or
426 responsibilities, or that such persons had a reasonable basis for believing occurred within the
427 scope of interstate commission employment, duties or responsibilities; provided, however, that
428 the actual or alleged act, error, or omission did not result from intentional or willful and wanton
429 misconduct on the part of such persons.

430 Section 11. (a) The interstate commission shall promulgate reasonable rules in order to
431 effectively achieve the purposes of this compact. In the event the interstate commission exercises
432 its rulemaking authority in a manner that is beyond the scope or the powers granted in this act,
433 then that action by the interstate commission shall be invalid and have no force or effect.

434 (b) Rules shall be made pursuant to a rulemaking process that shall substantially, or as
435 much as possible, conform with the Model State Administrative Procedure Act of 1981, uniform
436 laws annotated, vol. 15, p.1 (2000) as amended.

437 (c) Not later than 30 days after a rule is promulgated, any person may file a petition for
438 judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise
439 prevent the rule from becoming effective unless the court finds that the petitioner has a
440 substantial likelihood of success. The court shall give deference to the actions of the interstate
441 commission consistent with applicable law and shall not find the rule to be unlawful if the rule
442 represents a reasonable exercise of the interstate commission's authority.

443 (d) If a majority of the legislatures of the compacting states reject a rule by enactment of
444 a statute or resolution, then such rule shall have no further force and effect in any compacting
445 state.

446 Section 12. (a) All courts shall take judicial notice of the compact and the rules in any
447 judicial or administrative proceeding in a member state pertaining to the subject matter of this
448 compact which may affect the powers, responsibilities or actions of the interstate commission.

449 (b) The interstate commission shall be entitled to receive all service of process in any
450 such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure
451 to provide service of process to the interstate commission shall render a judgment or order void
452 as to the interstate commission, this compact or promulgated rules.

453 (c) If the interstate commission determines that a member state has defaulted in the
454 performance of its obligations or responsibilities under this compact, the by-laws or the
455 promulgated rules, the interstate commission shall:

456 (1) provide written notice to the defaulting state and other member states, of the
457 nature of the default, the means of curing the default and any action taken by the interstate
458 commission; provided, that the interstate commission shall specify the conditions by which the
459 defaulting state must cure its default;

460 (2) provide remedial training and specific technical assistance regarding the
461 default; and

462 (3) terminate a defaulting state from the compact if the defaulting state fails to
463 cure the default and upon an affirmative vote of a majority of the member states, all rights,
464 privileges and benefits conferred by this compact shall be terminated from the effective date of
465 termination; provided that a cure of the default shall not relieve the offending state of obligations
466 or liabilities incurred during the period of the default.

467 (d) Suspension or termination of membership in this compact shall be imposed only after
468 all other means of securing compliance have been exhausted. Notice of intent to suspend or
469 terminate shall be given by the interstate commission to the governor and the majority and
470 minority leaders of the defaulting state's legislature and each of the member states.

471 (e) The state which has been suspended or terminated shall be responsible for all
472 assessments, obligations and liabilities incurred through the effective date of suspension or
473 termination including obligations that require performance beyond the effective date of
474 suspension or termination.

475 (f) The interstate commission shall not bear any costs relating to any state that has been
476 found to be in default or which has been suspended or terminated from the compact, unless
477 otherwise mutually agreed upon in writing between the interstate commission and the defaulting
478 state.

479 (g) The interstate commission shall attempt, upon the request of a member state, to
480 resolve disputes which are subject to the compact and which may arise among member states and
481 between member and non-member states. The interstate commission shall promulgate a rule
482 providing for both mediation and binding dispute resolution for disputes as appropriate.

483 (h) The interstate commission, in the reasonable exercise of its discretion, shall enforce
484 this compact.

485 (i) The remedies in this section shall not be the exclusive remedies of the interstate
486 commission. The interstate commission may avail itself of any other remedies available under
487 state law or the regulation of a profession.

488 Section 13. (a) The interstate commission shall pay, or provide for the payment of, the
489 reasonable expenses of its establishment, organization and ongoing activities.

490 (b) The interstate commission may levy on and collect an annual assessment from each
491 member state to cover the cost of the operations and activities of the interstate commission and
492 its staff which must be in a total amount sufficient to cover the interstate commission's annual
493 budget as approved each year. The aggregate annual assessment amount shall be allocated based
494 upon a formula determined by the interstate commission, which shall promulgate a rule that is
495 binding upon all member states.

496 (c) The interstate commission shall not incur obligations of any kind prior to securing the
497 funds adequate to meet that obligation; nor shall the interstate commission pledge the credit of
498 any of the member states, except by and with the authority of the member state.

499 (d) The interstate commission shall keep accurate accounts of all receipts and
500 disbursements. The receipts and disbursements of the interstate commission shall be subject to
501 the audit and accounting procedures established under its by-laws. All receipts and
502 disbursements of funds handled by the interstate commission shall be audited yearly by a
503 certified or licensed public accountant and the report of the audit shall be included in and become
504 part of the annual report of the interstate commission.

505 Section 14. (a) Any state shall be eligible to become a member state.

506 (b) The compact shall become effective and binding upon legislative enactment of the
507 compact into law by no less than 10 states. The effective date shall be no earlier than December
508 1, 2007. Thereafter it shall become effective and binding as to any other member state upon
509 enactment of the compact into law by that state. The governors of non-member states or the

510 designees of non-member states shall be invited to participate in the activities of the interstate
511 commission on a non-voting basis prior to adoption of the compact by all states.

512 (c) The interstate commission may propose amendments to the compact for enactment by
513 the member states. No amendment shall become effective and binding upon the interstate
514 commission and the member states unless it is enacted into law by unanimous consent of the
515 member states.

516 Section 15. (a) Once effective, the compact shall continue in force and remain binding
517 upon each and every member state; provided that a member state may withdraw from the
518 compact by specifically repealing the statute that enacted the compact into law.

519 (b) Withdrawal from this compact shall be by the enactment of a statute repealing this
520 compact, but shall not take effect until 1 year after the effective date of such statute.

521 (c) The withdrawing state shall immediately notify the chairperson of the interstate
522 commission in writing upon the introduction of legislation repealing this compact in the
523 withdrawing state. The interstate commission shall notify the other member states of the
524 withdrawing state's intent to withdraw within 60 days of receiving notice.

525 (d) The withdrawing state shall be responsible for all assessments, obligations and
526 liabilities incurred through the effective date of withdrawal, including the performance of
527 obligations which extend beyond the effective date of the withdrawal.

528 (e) Reinstatement following withdrawal of a member state shall occur upon the
529 withdrawing state reenacting the compact or upon such later date as determined by the interstate
530 commission.

531 Section 16. (a) This compact shall dissolve effective upon the date of the withdrawal or
532 default of the member state which reduces the membership in the compact to 1 member state.

533 (b) Upon the dissolution of this compact, the compact shall become null and void and
534 shall be of no further force or effect. The business and affairs of the interstate commission shall
535 be concluded and surplus funds shall be distributed in accordance with the by-laws.

536 Section 17. (a) This compact shall be severable and if any phrase, clause, sentence or
537 provision is deemed unenforceable, the remaining provisions of the compact shall be
538 enforceable.

539 (b) This compact shall be liberally construed to effectuate its purposes.

540 (c) Nothing in this compact shall be construed to prohibit the applicability of other
541 interstate compacts to which the states are members.

542 Section 18. (a) Nothing in this compact shall prevent the enforcement of any other law of
543 a member state that is not inconsistent with this compact.

544 (b) All member states' laws conflicting with this compact are superseded to the extent of
545 the conflict.

546 Section 19. (a) All lawful actions of the interstate commission, including all rules and by-
547 laws promulgated by the interstate commission, shall be binding upon the member states.

548 (b) All agreements between the interstate commission and the member states shall be
549 binding in accordance with the terms of the agreement.

550 (c) In the event any provision of this compact exceeds the constitutional limits imposed
551 on the legislature of any member state, such provision shall be ineffective to the extent of the
552 conflict with the constitutional provision of that member state.

553 SECTION 7. The third paragraph of section 26 of chapter 31 of the General Laws, as
554 appearing in the 2010 Official Edition, is hereby amended by adding the following sentence:- No
555 appointing authority shall request military medical records for the purpose of employment other
556 than that which is required by the administrator.

557 SECTION 8. Clause twenty-second D of section 5 of chapter 59 of the General Laws, as
558 so appearing, is hereby amended by striking out, in lines 765 to 767, inclusive, the words “;
559 provided, however, that in no case shall the abatement amount exceed the sum of \$2,500 in any
560 fiscal year following the fifth fiscal year of receipt of the abatement”.

561 SECTION 9. Section 2 of chapter 115 of the General Laws, as so appearing, is hereby
562 amended by inserting after the word “commissioner”, in line 1,,the following words:- shall be a
563 veteran, as defined in clause Forty-third of section 7 of chapter 4 and.

564 SECTION 10. Section 71C of chapter 143 of the General Laws, as so appearing, is
565 hereby amended by inserting after the word “licensee”, in line 45, the following words:- ;
566 provided, however, that if the licensee is on active duty with the armed forces of the United
567 States, the license shall remain valid until the licensee is released from active duty and for a
568 period of not less than 90 days following that release.

569 SECTION 11. Section 62 of chapter 146 of the General Laws, as so appearing, is hereby
570 amended by inserting after the word “certificate”, in line 26, the following words:- ; provided,
571 however, that if the holder of a certificate of competency is on active duty with the armed forces

572 of the United States, the certificate shall remain valid until the holder is released from active duty
573 and for a period of not less than 90 days following that release.

574 SECTION 12. Section 67 of said chapter 146, as so appearing, is hereby amended by
575 inserting, after the word “licensee”, in line 21, the following words:- ; provided, however, that
576 if the licensee is on active duty with the armed forces of the United States, the license shall
577 remain valid until the licensee is released from active duty and for a period of not less than 90
578 days following that release.

579 SECTION 13. Section 85 of said chapter 146,, as so appearing, is hereby amended by
580 inserting after the word “licensee”, in line 33, the following words:- ; provided, however, that if
581 the licensee is on active duty with the armed forces of the United States, the license shall remain
582 valid until the licensee is released from active duty and for a period of not less than 90 days
583 following that release.

584 SECTION 14. Chapter 276A of the General Laws is hereby amended by adding the
585 following 2 sections:-

586 Section 10. A probation officer of a district court, in Boston, the municipal court of the
587 city of Boston or the officer’s official designee, when gathering information in accordance with
588 section 85 of chapter 276, shall, at or prior to arraignment of a defendant on a criminal
589 complaint, use best efforts to confirm the defendant’s status as a veteran, as defined in clause
590 Forty-third of section 7 of chapter 4, a person on active service in the armed forces of the United
591 States, as defined in said clause Forty-third of said section 7 of said chapter 4 or a person with a
592 history of military service in the armed forces of the United States.

593 The district courts, and in Boston, the municipal court of the city of Boston, shall have
594 jurisdiction to divert to a program any person who is a veteran, as defined in said clause Forty-
595 third, on active service in the armed forces of the United States, as defined in said clause Forty-
596 third of said section 7 of said chapter 4, or who has history of military service in the armed forces
597 of the United States who is charged with an offense or offenses against the commonwealth for
598 which a term of imprisonment may be imposed, regardless of age, who has not previously been
599 convicted of a violation of any law of the commonwealth or of any other state or of the United
600 States in any criminal court proceeding after having reached the age of 18 years, except for
601 traffic violations for which no term of imprisonment may have been imposed, who does not have
602 any outstanding warrants, continuances, appeals or criminal cases pending before any courts of
603 the commonwealth or any other state or of the United States and who has received a
604 recommendation from a program that such person would, in light of the capacities of and
605 guidelines governing it, benefit from participation in said program.

606 Section 11. A defendant who is determined to be a veteran, on active service or has a
607 history of military service in the armed forces of the United States and who is eligible for
608 diversion or treatment under section 10 may, at arraignment, be afforded a 14-day continuance
609 by the court to seek an assessment by the United States Department of Veterans Affairs, the
610 department of veterans' services or another state or federal agency with suitable knowledge and
611 experience of veterans affairs to provide the court with treatment options available to the
612 defendant, including diversion programs, if appropriate. If the defendant has demonstrated
613 symptomatology suggestive of a mental illness, a qualified psychiatrist, clinical psychologist or
614 physician shall, in consultation with the United States Department of Veterans Affairs, the
615 department of veterans' services or another federal or state agency, provide a written report to

616 the court to assist in sentencing or diversion. The court may consider the recommendations of any
617 diagnosing or treating licensed mental health professional for the defendant for pre-trial
618 diversion or the imposition of a sentence. Prior to offering a continuance, the court shall inquire
619 into the circumstances of the charge.

620 If the court offers a 14-day continuance to seek an assessment and a defendant chooses to
621 accept the offer of a continuance, the defendant shall so notify the court at arraignment. Upon
622 receipt of such notification, the judge may grant a 14-day continuance. The court, through the
623 probation office or the officer's official designee, shall direct the defendant to an assessment
624 program, shall inform the program of the action and shall require that the program provide the
625 probation department and court with its findings. A court may grant a defendant who is
626 preliminarily determined not to be eligible for pre-trial diversion a 14-day continuance for
627 assessment. The court shall consider the opinion of the commonwealth on the merits of granting
628 or denying the continuance. A court may grant a continuance sua sponte or upon motion by the
629 defendant.

630 SECTION 15. The executive office of health and human services, in consultation with
631 the executive office for administration and finance, department of veterans' services, the
632 Soldiers' Home in Massachusetts and the Soldiers' Home in Holyoke shall conduct a fiscal and
633 operational analysis of the impact of designating a non-profit entity as a state soldiers home. The
634 analysis shall examine the availability of federal, state or private funds to support the
635 construction and operation of additional soldiers' homes by the designated non-profit entity,
636 including unused federal per diems under current United States Department of Veterans Affairs
637 apportionment guidelines, provide a 5-year and 10-year master plan for capital facility
638 improvements and expansion and estimate long-term costs that may be incurred by the

639 commonwealth for the construction and ongoing maintenance of such a home. The executive
640 office of health and human services shall submit a copy of the analysis to the clerks of the house
641 of representatives and senate who shall forward copies of the analysis to the house and senate
642 committees on ways and means and the joint committee on veterans and federal affairs by
643 December 1, 2012.

644 SECTION 16. There shall be a special commission to study and make recommendations
645 under chapters 13 and 115 of the General Laws and titles 108 and 230 of the Code of
646 Massachusetts Regulations, relative to the training and the certification, professional licensure or
647 accreditation of veterans' benefits and services officers.

648 The commission shall consist of 6 members: the house and senate chairs of the joint
649 committee on veterans and federal affairs or their designees, who shall serve as co-chairs; the
650 secretary of veterans' services or a designee; the undersecretary of the office of consumer affairs
651 and business regulation or a designee; the president of the Massachusetts Veterans' Service
652 Officers Association or a designee; and the executive director of the Massachusetts Municipal
653 Association or a designee.

654 The commission shall: (i) review and analyze processes and procedures of the department
655 of veterans' services relative to the training or certification of veterans' benefits and services
656 officers; (ii) review and analyze processes and procedures of the United States Department of
657 Veterans Affairs relative to the training and accreditation of representatives of veterans and
658 military service organizations; (iii) review and analyze processes and procedures for the
659 establishment of professional licensure for veterans' benefits and services officers within the
660 commonwealth; (iv) review and analyze the employment processes and procedures of cities and

661 towns, veterans' services districts and the county of Dukes County with respect to veterans'
662 benefits and services officers; (v) analyze and project costs associated with each of these items;
663 and (vi) compile and issue a report of the study with recommendations for legislation relative to
664 the training and the certification, professional licensure or accreditation of veterans' benefits and
665 services officers.

666 The commission shall convene its first official meeting not later than August 1, 2012. The
667 commission shall submit a copy of the study with recommendations for legislation to the clerks
668 of the house of representatives and senate who shall forward copies of the study to the house and
669 senate committees on ways and means and the joint committee on veterans and federal affairs by
670 December 1, 2012.

671 As used in this section, the term "veterans' benefits and services officers" shall include:
672 (i) full-time and part-time veterans' agents under chapter 115 of the General Laws, chapter 471
673 of the acts of 1972, chapter 68 of the acts of 1984 and title 108 of the Code of Massachusetts
674 Regulations; (ii) full-time directors of veterans' services districts and full-time and part-time
675 deputy directors or assistant directors of veterans' services districts under said chapter 115 of the
676 General Laws, said chapter 471 of the acts of 1972, said chapter 68 of the acts of 1984 and title
677 108 of the Code of Massachusetts Regulations; (iii) county veterans' agents under chapter 128 of
678 the acts of 1982; and (iv) the veterans' benefits and services commissioner in and for the city of
679 Boston under said chapter 115 of the General Laws.

680 SECTION 17. The court administrator shall, in consultation with the department of
681 veterans services, conduct a study and make recommendations relative to the adoption of a court
682 training program to educate and assist court personnel, including court staff, probation officers

683 and their designees, court officers, prosecutors, defense counsel and judges in recognizing
684 veterans issues and determining the appropriate treatment for veterans within the court. The
685 administrative office of the trial court shall file a report with recommendations for a court
686 training program to the joint committee on the judiciary, the joint committee on veterans and
687 federal affairs and the house and senate committees on ways and means by June 1, 2013.

688 SECTION 18. The court administrator shall consult with the United States Department
689 of Veterans Affairs and the department of veterans' services, to conduct a study to examine the
690 intake and review process and disposition, including treatment and diversion options, of
691 veterans, persons on active service in the armed forces of the United States and persons with a
692 history of military service in the armed forces of the United States who face criminal complaints
693 in the courts. The study shall include specific information including, but not limited to, the
694 number of defendants who are veterans, servicemembers or have a history of military service
695 who enter the courts of the commonwealth each year, the number who are eligible to enter
696 treatment and diversion programs, the number screened and assessed for placement in a program,
697 the number that successfully complete a program, the number that do not complete a program
698 and the reason for such incompleteness, the number that are diverted to a program and obtain a
699 dismissal of their court proceedings and the number that enter and complete a program but
700 reoffend and enter the criminal court system again within 1 year of successful completion. The
701 study shall provide recommendations for annual reporting requirements to be provided by the
702 administrative office of the trial court related to veterans in the criminal justice system. The
703 report shall be provided by the court administrator to the department of veterans' services, the
704 joint committee on veterans and federal affairs and the joint committee on the judiciary not later

705 than April 1, 2013. Reporting shall be provided annually by the court administrator to the
706 department and the committees on or before December 1 of each year thereafter.

707 SECTION 19. The council shall adopt all necessary rules, regulations and procedures to
708 implement section 42 of chapter 15A of the General Laws not later than March 1, 2013.