
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 541 Session of
2019

INTRODUCED BY BIZZARRO, A. DAVIS, D. MILLER, MURT, KINSEY,
OTTEN, ROTHMAN, LONGIETTI, SAINATO, NEILSON, HILL-EVANS,
MULLERY, SIMMONS, CONKLIN, GOODMAN, ISAACSON, DEASY,
McCLINTON, KORTZ, CALTAGIRONE, SCHWEYER, McNEILL, DeLUCA,
GILLEN, BURGOS, FLYNN, BOBACK, RADER, HOHENSTEIN, T. DAVIS,
IRVIN AND DRISCOLL, FEBRUARY 19, 2019

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 19, 2019

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 service member courts.

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 service member courts.

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

16 (b) Joint court.--Two or more president judges may jointly
17 form a veterans and service member court in consultation with

1 the district attorney from each county represented by the joint
2 court.

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

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

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

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

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

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

19 (3) the court finds that the defendant:

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

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

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

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

1 (g) Exclusion.--A defendant shall be excluded from a court
2 if any of the following applies:

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

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

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

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

12 (1) a military service or medical record;

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

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

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

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

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

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

1 court finds that the defendant has undergone a screening and
2 assessment within the previous 60 days.

3 (2) The court shall inform the defendant that, if the
4 defendant fails to meet the conditions of the court,
5 eligibility to participate in the court shall be revoked and
6 the defendant shall be sentenced as provided under 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 the terms and conditions of the court,
10 including the possibility of sanctions or incarceration for
11 failing to abide by or comply with the terms of the court.

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

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

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

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

1 Commonwealth, the department and community-based programs.

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

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

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

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

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

15 (iii) engaged in criminal conduct rendering the
16 defendant unsuitable for the court; and

17 (iv) otherwise violated the terms and conditions of
18 the court or the defendant's sentence or is unable to
19 participate for any reason.

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

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

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

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

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

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

1 (ii) a testing, counseling and treatment fee in an
2 amount necessary to cover the costs of testing,
3 counseling or treatment performed or provided under the
4 supervision of the court.

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

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

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

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

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

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

19 (1) 18 Pa.C.S. § 2502 (relating to murder);

20 (2) 18 Pa.C.S. § 2701 (relating to simple assault);

21 (3) 18 Pa.C.S. § 3121 (relating to rape);

22 (4) 18 Pa.C.S. § 3124.1 (relating to sexual assault);

23 and

24 (5) 18 Pa.C.S. § 3701 (relating to robbery).

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

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

30 "Veteran." A person who served in the armed forces of the

1 United States and was discharged or released from service under
2 conditions that were not dishonorable.

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