SENATE DOCKET, NO. 1014 FILED ON: 1/17/2013

SENATE . . . . . No. 911

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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:

An Act regarding rights of persons receiving services from program or facilities of the Department of Mental Health.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Patricia D. Jehlen	*Second Middlesex*
Katherine M. Clark	*Fifth Middlesex*

SENATE DOCKET, NO. 1014 FILED ON: 1/17/2013

SENATE . . . . . No. 911

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 911) of Patricia D. Jehlen and Katherine M. Clark for legislation relative to the rights of persons receiving services from program or facilities of the Department of Mental Health. Mental Health and Substance Abuse.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1430* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act regarding rights of persons receiving services from program or facilities of the Department of Mental Health.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1: Section 23 of chapter 123 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after subparagraph (e) the following subparagraph:

(f) to daily access to fresh air and the outdoors.

This right shall attach upon admission to an inpatient facility. The initial exercise of this right shall be subject to an assessment by a clinician which shall be completed no more than 48 hours after admission.

The exercise of this right shall only be suspended for a person in an inpatient facility upon written certification by a clinician that such person's exercise of such right in the immediate future would present a substantial risk of serious harm to such person or others. The suspension shall last no longer than the time necessary to prevent the harm and its imposition shall be documented with specific facts in such person's record. The signing of a three-day notice shall not constitute a basis for suspending the rights set forth in clause (f).

14 SECTION 2: Section 23 of chapter 123 of the General Laws, as appearing in the 2010
15 Official Edition, is hereby amended by adding after the seventh paragraph the following
16 paragraphs:

17 Any person who believes that their aforementioned rights in clauses (a) to (f), inclusive
18 were violated may seek redress through the following procedure:

19 Any person alleging such violation shall file a written request for a hearing with the
20 Department stating facts regarding the right(s) violated and requesting a hearing based on the
21 alleged violation.

22 An impartial hearing officer shall select a hearing location convenient to the Department
23 and to the client and shall conduct the hearing, which shall be an adjudicatory proceeding
24 pursuant to section 11 of Chapter 30A, in not less than 10 business days and not later than 30
25 business days after the receipt of the request for the hearing. The client and the Department may
26 be represented by an attorney or other person and shall be afforded the opportunity to present
27 evidence, to examine adverse evidence and to examine and cross-examine witnesses.

28 Within 30 business days after the conclusion of the hearing, the hearing officer shall
29 prepare a written decision containing findings of fact and conclusions of law based on the
30 evidence received at the hearing. Said decision may order such remedial relief as necessary. If
31 the person is likely to be discharge in less than 30 days after admission, the hearing shall be held
32 within one business day of the issuance of the Department's finding and recommendations,
33 unless otherwise requested by the person complaining, and the hearing officer shall issue a
34 decision within one business day of the hearing. In both cases, the hearing officer shall submit
35 copies of the decision, together with notice of appeal rights, to the client and the Department.
36 The decision may be appealed to the superior court pursuant to section 14 of chapter 30A.