

HOUSE No. 1486

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan and James J. O'Day

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 adoption of the accompanying bill:

An Act to reduce recidivism among emerging adults.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/18/2019</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>1/18/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/31/2019</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>1/25/2019</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>1/24/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/30/2019</i>
<i>Daniel R. Cullinane</i>	<i>12th Suffolk</i>	<i>1/31/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/31/2019</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>1/30/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/1/2019</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>1/30/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/24/2019</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>1/30/2019</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/1/2019</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>1/30/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/1/2019</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>2/1/2019</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/31/2019</i>

<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>1/30/2019</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>2/1/2019</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>1/30/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/30/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/22/2019</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>1/31/2019</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>1/31/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/31/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/1/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/29/2019</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>1/31/2019</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/18/2019</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/31/2019</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>1/29/2019</i>

HOUSE No. 1486

By Representatives Khan of Newton and O'Day of West Boylston, a petition (accompanied by bill, House, No. 1486) of Kay Khan, James J. O'Day and others for legislation to reduce recidivism among emerging adults. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to reduce recidivism among emerging adults.

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 7 of chapter 4 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by inserting after the sixty-first clause as added by Section 1
3 of Chapter 69 of the Acts of 2018, the following clause:-

4 Sixty-second. "Emerging Adult" shall mean any person who has attained the age of
5 criminal majority but has not yet attained the age of 25.

6 SECTION 2. Section 11A of chapter 71B of the General Laws, as appearing in the 2016
7 Official Edition, is hereby amended by striking out the words "department of education," and
8 inserting in place thereof the following words:- department of elementary and secondary
9 education.

10 SECTION 3. Section 11A of chapter 71B of the General Laws, as so appearing, is hereby
11 further amended by inserting after the words "county houses of correction," the following

12 words:- and state correctional facilities as defined by section 1 of Chapter 125 of the General
13 Laws.

14 SECTION 4. Section 1 of chapter 124 of the General Laws, as so appearing, is hereby
15 amended by inserting the following subsections:-

16 (v) adopt policies and procedures that are designed to aid, encourage, and guide emerging
17 adults, consistent with the goal of rehabilitating said emerging adults and preparing them to
18 assume the responsibilities and exercise the rights of a citizen of the commonwealth.

19 (w) in accordance with clauses (f) and (g), the commissioner shall as part of developing a
20 rehabilitation program and determining the custody requirements and program needs for each
21 emerging adult prisoner held in any county or state correctional facility, require the development
22 of an individualized rehabilitation program for each such emerging adult. Such program shall be
23 based on an individualized review of said person's physical and behavioral health, educational,
24 and other history relevant to their future rehabilitation, as well as any risk factors that are
25 strongly associated with re-offending behavior, and shall be documented on a standardized form.
26 The rehabilitation program shall be developed in consultation with family members chosen by
27 the emerging adult to support his or her rehabilitation goals. A proposed program shall be shared
28 with the emerging adult within one week of the emerging adult's commitment and said person
29 shall be afforded a meeting to discuss such program at which such person may make additional
30 suggestions for or raise any concerns with such program. The program shall contain both short
31 and long-term objectives that are measurable, reviewed monthly with said person, and revised as
32 circumstances warrant. The commissioner shall ensure that programs or services are available at
33 every facility that provide a realistic opportunity for each person in custody to achieve any

34 objectives identified in the individualized rehabilitation program that are to be accomplished
35 during any period of confinement, furlough, pre-release or parole.

36 (x) in accordance with clause (h), the commissioner shall as part of establishing training
37 programs for employees of the department and, by agreement, other corrections personnel,
38 require trainings on early, trauma-focused interventions, trauma-informed screenings and
39 assessments, and the recognition of reactions to victimization, as well as the necessity for using
40 diagnostic tools to assess the presence of trauma. Such training shall explicitly address the
41 impact of trauma on emerging adults and those emerging adults' pathways into the criminal
42 justice system, with the goal of reducing the likelihood of recidivism by addressing the unique
43 issues associated with emerging adults who may experience trauma, including without limitation
44 trauma resulting from victimization, emotional abuse, physical abuse, sexual abuse, emotional
45 neglect, physical neglect, family or community violence, substance abuse, mental illness,
46 parental absence, and the incarceration of a parent or other caregiver.

47 (y) in accordance with clause (q), the commissioner shall as part of making and
48 promulgating rules and regulations regarding nutrition and recreation, require that emerging
49 adults, regardless of classification or housing status, be provided multiple options for wellness
50 activities, including daily opportunities for physical activity and structured leisure activities, and
51 nutritious dining options supportive of lifelong health and well-being.

52 (z) in accordance with clause (q), the commissioner shall as part of making and
53 promulgating rules and regulations regarding communication and visiting privileges, require that
54 all emerging adults, regardless of classification or housing status, be provided the physical space
55 and time necessary to encourage contact with family members, while maintaining safety and

56 security. To that end, visitation with parents, grandparents, legal guardians, spouses, or children
57 of emerging adults, which is consistent with facility visitation rules and hours, shall not be
58 denied unless there is documentation demonstrating that security may be compromised by such
59 visitation or that the visit will unduly impact the visited emerging adult's well-being in a
60 negative manner.

61 (aa) in accordance with clause (q), the commissioner shall adopt policies that promote
62 meaningful family engagement that creates a partnership between facility staff and families to
63 best serve emerging adults in custody, including policies that require that: (i) families and social
64 supports are identified and engaged in emerging adults' rehabilitation; (ii) families and social
65 supports are valued and treated as partners in emerging adults' rehabilitation; (iii) families and
66 social supports assist with and actively participate in the design and implementation of emerging
67 adults' treatment plans and programming; (iv) and all emerging adults have plans, skills and
68 strategies that draw on relationships for problem solving and achieving goals.

69 (ab) in accordance with clause (q), the commissioner shall as part of making and
70 promulgating rules and regulations regarding education, training, and employment, require that
71 all emerging adults, regardless of classification or housing status, be provided with opportunities
72 to graduate from high school or achieve a high school equivalency diploma, if they have not yet
73 done so, and to pursue higher education or vocational training; emerging adults shall be provided
74 a minimum of six hours of classroom instruction on every weekday and special educational
75 services for those who are eligible, in order to enable the achievement of such educational levels;
76 be encouraged and allowed to pursue, as far as practicable, college level courses or appropriate
77 vocational education and training.

78 (ac) in accordance with clause (q), the commissioner shall as part of making and
79 promulgating rules and regulations regarding safety, discipline, and care, require that, with
80 respect to emerging adults, restraints, use of force, and the use of restrictive housing be limited to
81 those situations where an emerging adult demonstrates by his or her actions that he or she is
82 dangerous to him or herself or others, and no other intervention has been or is likely to be
83 effective in averting the danger posed by the emerging adult's behavior. An emerging adult shall
84 not be placed in restrictive housing or subject to restraints or use of force as a punishment,
85 harassment or consequence for noncompliance or in retaliation for any conduct.

86 (ad) in accordance with clause (v), the commissioner shall adopt policies that ensure that:
87 (i) all emerging adults in custody in state correctional facilities, regardless of classification or
88 housing status, are placed in a pre-release facility or released to a community corrections
89 program at least 120 days prior to discharge or parole, and (ii) all emerging adults in custody in
90 county correctional facilities serving sentences greater than six months, regardless of
91 classification, are placed in a pre-release facility or released to a community corrections program
92 at least 90 days prior to discharge or parole.

93 (ae) in accordance with clause (e), the commissioner shall, as part of establishing,
94 maintaining, and administering programs of rehabilitation, adopt policies and procedures
95 concerning the provision of health services for emerging adults that foster continuity of care for
96 each emerging adult with any community-provided health services received before or after their
97 incarceration, including but not limited to medical, dental, psychological and psychiatric services
98 and substance abuse treatment, and minimize interruptions of such services resulting from
99 incarceration. Such policies shall include provisions to ensure that individuals continue to
100 receive any treatment and medication that they received prior to confinement during their

101 sentence, that prior health records for each person are received and considered in providing
102 health services on an ongoing basis, and that every facility creates a discharge plan for each
103 individual with any health issue that might impair his or her ability to succeed in the community,
104 including the identification of and a plan for engaging all needed health care providers, including
105 insurance providers, upon his or her release.

106 (af) adopt policies and procedures that provide a discrimination-free environment for
107 emerging adults, including but not limited to policies and procedures ensuring that such
108 emerging adults' self-identifications as Lesbian, Gay, Bi-Sexual, Transgender, Questioning,
109 Queer, Intersex, and Gender Non-Conforming are respected by staff, contractors, interns, and
110 volunteers. The department shall provide, within one week of any emerging adult's commitment,
111 written information concerning the department's anti-discrimination policies and procedures,
112 including but not limited to, written information explaining said emerging adult's rights and
113 procedures for reporting complaints.

114 (ag) in accordance with clauses (h) and (ae), the commissioner shall as part of
115 establishing training programs for employees of the department and adopting policies and
116 procedures concerning the provision of a discrimination-free environment for emerging adults,
117 require trainings for employees regarding the department's anti-discrimination policies and
118 procedures, including but not limited to trainings concerning behaviors constituting
119 discrimination or harassment, procedures for preventing and reporting such behaviors, and
120 methods of communicating effectively and professionally with emerging adults self-identifying
121 as Lesbian, Gay, Bi-Sexual, Transgender, Questioning, Queer, Intersex, or Gender Non-
122 Conforming.

123 Nothing in this section shall preclude the commissioner from extending the provisions of
124 subsections (v) to (ag), inclusive, to prisoners who are not emerging adults.

125 SECTION 5. Section 2 of chapter 124 of the General Laws, as so appearing, is hereby
126 amended by striking out the last paragraph and inserting in place thereof the following
127 paragraphs:-

128 Subject to the supervision and control of the commissioner, the deputy commissioner for
129 educational services shall, in consultation with the department of elementary and secondary
130 education, establish and maintain standards for all teaching positions in the jurisdiction of the
131 department and shall review the qualifications and performances of all teaching personnel in the
132 department.

133 Each of the said deputy commissioners shall perform such other duties as may be
134 assigned to him from time to time by the commissioner.

135 SECTION 6. Section 25 of chapter 126 of the General Laws, as so appearing, is hereby
136 amended by striking out the third sentence and inserting in place thereof the following
137 sentences:- Every prisoner shall have made available, at the expense of the county, appropriate
138 and adequate hygiene and sanitary products, including without limitation water that is safe for
139 human consumption and personal hygiene, toothbrushes, toothpaste, deodorant, feminine
140 hygiene products where applicable and regardless of gender identity, soap, shampoo, comb or
141 brush. The sheriff of every county and the commissioner of corrections shall adopt policies and
142 practices that ensure that sanitation and hygiene services in all correctional facilities are provided
143 in a manner as to ensure privacy and dignity, and are physically accessible, safe, hygienic, and
144 culturally appropriate.

145 SECTION 7. Section 19 of chapter 127 of the General Laws, as so appearing, is hereby
146 amended by inserting after the last sentence the following sentence:- The commissioner shall
147 require that, in any system of physical training implemented pursuant to this section, emerging
148 adults, regardless of classification or housing status, be provided multiple options for wellness
149 activities, including daily opportunities for physical activity and structured leisure activities.

150 SECTION 8. Section 22 of chapter 127 of the General Laws, as so appearing, is hereby
151 amended by inserting after the word “minors” in the title of section 22 and at the beginning of
152 the fourth sentence the following:- and emerging adults.

153 SECTION 9. Chapter 127 of the General Laws, as so appearing, is hereby amended by
154 inserting after section 32A the following sections:-

155 Section 32B. Emerging adults in jails or correctional facilities shall be treated as needing
156 aid, encouragement, and guidance, consistent with the goal of rehabilitating such emerging
157 adults to assume the responsibilities and exercise the rights of a citizen of the commonwealth.

158 Section 32C. In accordance with section 32B, emerging adults shall be provided a
159 discrimination-free environment, including with respect to their self-identifications as Lesbian,
160 Gay, Bi-Sexual, Transgender, Questioning, Queer, Intersex, and Gender Non-Conforming, which
161 shall be respected by staff, contractors, interns, and volunteers.

162 SECTION 10. Section 36C of Chapter 127 of the General Laws, as added by Section 92
163 of Chapter 69 of the Acts of 2018, is hereby amended by inserting at the end of the first
164 paragraph the following sentence:- Visitation, including contact visits, with parents,
165 grandparents, legal guardians, spouses, or children of emerging adults, which is consistent with
166 facility visitation rules promulgated by the commissioner, shall not be denied unless there is

167 documentation demonstrating that security may be compromised by such visitation or that the
168 visit will unduly impact the visited emerging adult’s well-being in a negative manner.

169 SECTION 11. Section 48B of Chapter 127 of the General Laws, as added by Section 96
170 of Chapter 69 of the Acts of 2018, is hereby amended by striking out the words “young adult”
171 and “young adults”, in each instance, and inserting in place thereof the following words:-
172 emerging adults.

173 SECTION 12. Said section 48B of said Chapter 127 of the General Laws, as added by
174 Section 96 of Chapter 69 of the Acts of 2018, is hereby further amended by striking out the
175 words “are 18 to 24 years” and inserting in place thereof the following words:- have not attained
176 25 years.

177 SECTION 13. Said section 48B of Chapter 127 of the General Laws, as added by Section
178 96 of Chapter 69 of the Acts of 2018, is hereby further amended by inserting after subsection (c)
179 the following subsection:-

180 (d) Officers designated under subsection (a) shall receive trainings on early, trauma-
181 focused interventions, trauma-informed screenings and assessments, and the recognition of
182 reactions to victimization, as well as the necessity for using diagnostic tools to assess the
183 presence of trauma. Such training shall explicitly address the impact of trauma on emerging
184 adults and those emerging adults’ pathways into the criminal justice system, with the goal of
185 reducing the likelihood of recidivism by addressing the unique issues associated with emerging
186 adults who may experience trauma, including without limitation trauma resulting from
187 victimization, emotional abuse, physical abuse, sexual abuse, emotional neglect, physical

188 neglect, family or community violence, substance abuse, mental illness, parental absence, and
189 the incarceration of a parent or other caregiver.

190 SECTION 14. Section 49A of Chapter 127 of the General Laws, as so appearing, is
191 hereby amended by inserting after the third paragraph the following paragraph:-

192 Consistent with the foregoing, all emerging adults, regardless of classification or housing
193 status, shall be provided with opportunities to graduate from high school or achieve a high school
194 equivalency diploma, if they have not yet done so, and to pursue higher education or vocational
195 training; emerging adults shall be provided a minimum of six hours of classroom instruction on
196 every weekday and special educational services for those who are eligible, when appropriate, in
197 order to enable the achievement of such educational levels; be encouraged and allowed to
198 pursue, as far as practicable, college level courses or appropriate vocational education and
199 training.

200 SECTION 15. Section 117 of chapter 127 of the General Laws, as so appearing, is hereby
201 amended by inserting after the last sentence of the first paragraph the following:- Physician
202 determinations concerning where emerging adults should receive health services, including but
203 not limited to medical, dental, and psychiatric services, shall prioritize the continuity of
204 community-provided health services and aim to minimize interruptions of such services resulting
205 from confinement.

206 SECTION 16. Chapter 127 of the General Laws, as so appearing, is hereby amended by
207 inserting after section 169 the following section:-

208 Section 170. With respect to emerging adults, the use of restraints, the use of force, and
209 the use of restrictive housing shall be limited to those situations where an emerging adult

210 demonstrates by his or her actions that he or she is dangerous to him or herself or others, and no
211 other intervention has been or is likely to be effective in averting the danger posed by the
212 emerging adult's behavior. An emerging adult shall not be placed in restrictive housing or
213 subject to restraints or use of force as a punishment, harassment or consequence for
214 noncompliance or in retaliation for any conduct.

215 SECTION 17. Section 58 of chapter 276 of the General Laws, as amended by Section
216 170 of Chapter 69 of the Acts of 2018, so appearing, is hereby amended by inserting after the last
217 sentence the following paragraph:-

218 No emerging adult in any trial court proceeding shall be detained in any secure facility
219 because such person lacks a suitable place to live or because, if such emerging adult is in the
220 custody of another state agency, such agency is unable to locate a suitable placement or place to
221 live for him or her.