

HOUSE No. 1754

The Commonwealth of Massachusetts

PRESENTED BY:

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 addressing long term unemployment in target communities.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

James J. O'Day

14th Worcester

Carlos Henriquez

5th Suffolk

HOUSE No. 1754

By Mr. O'Day of West Boylston, a petition (accompanied by bill, House, No. 1754) of James J. O'Day and Carlos Henriquez for legislation to promote employment in target communities with long-term unemployment. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act addressing long term unemployment in target communities.

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

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

3 DEFINITIONS:

4 Applicant - means any current or prospective employee, licensee, or volunteer and
5 includes all persons included in 803 C.M.R. 2.03.

6 Census tract - means a population census tract, or, if census tracts are not defined for the
7 area, a block numbering area (BNA) as established by the Bureau of the Census, U.S.
8 Department of Commerce.

9 CORI - Criminal Offender Record Information, as defined in 803 CMR 2.03

10 DCJIS – means the Department of Criminal Justice Information Services Department of
11 Criminal Justice Information Services, the Commonwealth agency statutorily designated to
12 oversee the authorized provision of Criminal Offender Record Information to the community.

13 Grant – refers to a Justice Reinvestment Employment Grant established in Section 3.

14 Grantee – refers to a private employer or a Justice Reinvestment Work Program that
15 receives funding under this Act.

16 Otherwise Qualified – means any Applicant that meets all other criteria for a position or
17 consideration for a position

18 Target Community – refers to those 50 census tracts defined in Section 1 of this Act,
19 where residents are eligible for unemployment funded by grants under this Act, and where work
20 funded by grants under this Act will be performed.

21 Trust Fund – refers to the Justice Reinvestment Trust Fund established under section 2.

22 SECTION 1. The Secretary of Labor and Workforce Development and the Secretary of
23 Public Safety and Security shall collaborate to identify those 50 census tracts throughout the
24 Commonwealth of Massachusetts with the highest incidence of poverty (as measured in the most
25 recent U.S. Census) that also fall among the 100 census tracts with the highest crime rates.
26 These 50 neighborhoods shall be designated Justice Reinvestment Target Communities
27 (henceforth “target communities”), provided that no more than 40% of the selected target
28 communities shall be located in any one county.

29 SECTION 2. There shall be established a Justice Reinvestment Trust Fund (henceforth
30 “the trust fund”) of not less than \$200 million annually. The trust fund shall be administered by
31 the Secretary of Labor and Workforce Development, for the purposes of providing funding for
32 the Justice Reinvestment Employment Grants, and for the Justice Reinvestment Work Programs
33 defined in Section 3.

34 SECTION 3.

35 (a) Justice Reinvestment Employment Grants - Subject to the availability of funds in
36 the trust fund, the Secretary of Labor and Workforce Development will accept applications from
37 private employers for grant funding for the purposes established in subsection (c) of this section.

38 (b) Justice Reinvestment Work Program - Beginning one year after enactment of this
39 Act, if there are insufficient qualified private employers approved to receive grants to employ
40 100 people in a target community, the Secretary of Labor and Workforce Development shall
41 establish a Justice Reinvestment Work Program, to directly employ residents of that target
42 community. Such program will be eligible to apply for employment grants under this Act.

43 (c) Purpose - Grants made under this section shall be for creating employment
44 opportunities for unemployed and underemployed individuals in activities designed to address
45 community needs and reduce disparities in health, housing, education, job readiness, and public
46 infrastructure that have impeded these communities from realizing their full economic potential.

47 (d) Use of Funds- A recipient of a grant under this section (hereafter, “grantee”) shall use
48 the grant for the following purposes:

49 (1) Construction, re-construction, rehabilitation, and site improvements of residences or
50 public facilities, including improvements in the energy efficiency or environmental quality of
51 such public facilities or residences within a target community.

- 52 (2) Provision of human services, including child care services, health care services,
53 education, or recreational programs within a target community.
- 54 (3) The remediation and demolition of vacant and abandoned properties to eliminate
55 blight within a target community.
- 56 (4) Programs that provide disadvantaged youth with opportunities for employment,
57 education, leadership development, entrepreneurial skills development, and training within a
58 target community.
- 59 (5) The painting and repair of schools, community centers, and libraries within a target
60 community.
- 61 (6) The restoration and revitalization of abandoned and vacant properties to alleviate
62 blight in distressed and foreclosure-affected areas within a target community.
- 63 (7) The expansion of emergency food programs to reduce hunger and promote family
64 stability within a target community.
- 65 (8) The augmentation of staffing in Head Start, child care, and other early childhood
66 education programs to promote school readiness and early literacy within a target community.
- 67 (9) The renovation and enhancement of maintenance of parks, playgrounds, and other
68 public spaces within a target community.
- 69 (10) Supplemental labor for existing federally or State-funded infrastructure projects
70 within a target community.
- 71 (11) Supplemental labor for existing federally or state-funded projects aimed at
72 expanding access to weatherization or green energy projects within a target community.
- 73 (12) Other activities that address public needs within a target community, and which can
74 be implemented as quickly as the activities described in paragraphs (1) through (11).
- 75 (e) Conditions- As a condition of receiving a grant under this section, a grantee shall--
- 76 (1) agree to comply with the nondiscrimination policy set forth under section 109 of the
77 Housing and Community Development Act of 1974 (42 U.S.C. 5309);
- 78 (2) with respect to the funds allocated for each project funded under the grant--
- 79 (A) allocate not less than 75 percent for wages and benefits, and support services,
80 including child care services, for individuals hired from target communities, under the provisions
81 of this Act

82 (B) allocate the remaining funds to defray the other costs of the project, including
83 necessary capital goods, supplies, materials, rental payments, compensation of employees who
84 do not reside in the target community, transportation and other similar expenses;

85 (3) ensure that employment on any project funded under the grant is carried out in
86 accordance with subsection (d);

87 (4) institute an outreach program with community organizations and service providers in
88 low-income communities to provide information about placements funded under the grant to
89 potential Justice Reinvestment Employees;

90 (5) ensure that no fewer than 35 percent of individuals employed under the grant are
91 individuals described in paragraph (4)(B) of subsection (f).

92 (6) abide by the CORI guidelines outlined in Section 4

93 (f) Employment Described- Employment funded under this section shall meet the
94 following specifications:

95 (1) Any employer that employs an individual whose employment is funded under the
96 grant shall--

97 (A) continue to employ such individual for not less than 12 months, subject to the
98 individual's satisfactory performance of the reasonable requirements of the individual's
99 employment;

100 (B) if such an individual desires full-time employment, employ such individual for not
101 less than 35 hours per week and not more than 40 hours, and if such an individual desires part-
102 time work, employ such individual for a mutually agreed number of hours per week that is less
103 than 35 hours per week;

104 (C) comply with responsible contractor standards, as determined by the relevant official
105 in the unit of local general government;

106 (D) provide compensation to such individual on a per hour basis equal to the
107 compensation provided to public sector employees who perform similar work in the community
108 where such individual is employed or, if no public sector employees perform such similar work,
109 provide compensation to such individual that is comparable to the compensation provided to
110 private-sector employees who perform similar work in the community where such individual is
111 employed;

112 (E) if such employment is in construction, provide compensation to any laborer or
113 mechanic employed under the grant at rates not less than those prevailing on similar construction
114 in the locality

115 (F) offer assistance to such individual in applying for social benefits for which such
116 individual or the members of such individual's family may be eligible.

117 (G) offer assistance to such individual in enrolling in high school, GED preparation, or
118 college-level courses, and in applying for financial aid for such educational programs.

119 (2) No individual whose employment is funded under the grant may work for an
120 employer at which a collective bargaining agreement is in effect covering the same or similar
121 work, unless--

122 (A) the consent of the union at such employer is obtained; and

123 (B) negotiations have taken place between such union and the employer as to the terms
124 and conditions of such employment.

125 (3) (A) An employer may not employ an individual for a position funded under this Act,
126 if--

127 (I) employing such individual will result in the layoff or partial displacement (such as a
128 reduction in hours, wages, or employee benefits) of an existing employee of the employer; or

129 (II) such individual will perform the same or substantially similar work that had
130 previously been performed by an employee of the employer who has been laid off or partially
131 displaced (as such term is described in subclause (I); and has not been offered by the employer to
132 be restored to the position the employee had immediately prior to being laid off or partially
133 displaced.

134 (III) An individual may not be hired for a position funded under this Act in a manner that
135 infringes upon the promotional opportunities of an existing employee (as of the date of such
136 hiring) of an employer receiving funds under this Act.

137 (B) A community-based organization receiving funds under this Act may not use such
138 funds to provide services or functions that are customarily provided by a unit of general local
139 government where such services or functions are provided by the organization.

140 (4) An individual hired to fill a job funded under this Act shall be a resident of a target
141 community, and must provide at least one proof of address including, but not limited to: a
142 Massachusetts Identification Card, a Massachusetts driver's license, or a utility or telephone bill
143 due within the previous 60 days. An individual hired to fill a job funded under this Act shall also
144 register with and be certified by the appropriate State employment service as eligible for such
145 employment, and shall satisfy at least one of the following conditions as of the date the
146 individual is so hired:

147 (A) The individual is receiving unemployment insurance benefits.

148 (B) The individual is unemployed, a member of a targeted group as defined by section
149 51(d) of the Internal Revenue Code of 1986, and has been seeking employment, with the
150 assistance of the state employment service, for not less than 30 days prior to the date on which
151 the individual is so hired.

152 (C) The individual is unemployed and seeking employment, with the assistance of the
153 state employment service, for not less than 60 days prior to the date the individual is so hired.

154 (D) The individual has been employed part-time while seeking full-time employment
155 with the assistance of the state employment service for not less than 60 days prior to the date the
156 individual is so hired.

157 (5) An individual employed in a job funded under this Act shall--

158 (A) notwithstanding the individual's employment in a job funded under this Act, be
159 registered with the appropriate state employment service as available for and seeking work;

160 (B) respond appropriately, as a person available for and seeking employment, to referrals
161 by the State employment service concerning available jobs;

162 (C) apply for suitable jobs for which the individual has been referred by the state
163 employment service; and

164 (D) accept a suitable job if such job is offered to the individual.

165 For purposes of subparagraphs (C) and (D), the term 'suitable job' means a job that a
166 newly unemployed individual receiving unemployment insurance benefits would be required to
167 accept in order to avoid forfeiting the individual's eligibility for continued receipt of
168 unemployment insurance benefits, as defined in MGL Chapter 151A, Section 25.

169 (6) An individual employed in a job funded under this Act who terminates that
170 employment in order to accept other employment, and who subsequently is terminated from that
171 other employment without fault on the individual's part, shall be eligible for reemployment in a
172 job funded under this Act.

173 (7) In hiring individuals for positions funded under this Act, or using funds under this Act
174 to continue to provide employee compensation for existing employees, an employer shall comply
175 with all applicable Federal, State, and local laws, personnel policies and regulations, and
176 collective bargaining agreements, as if such individual was hired, or such employee
177 compensation were provided, without assistance under this Act.

178 (8) An individual hired for a position funded under this Act shall--

179 (A) be considered an employee of the employer, by which such individual was hired; and

180 (B) receive the same employee compensation, have the same rights and responsibilities
181 and job classifications, and be subject to the same job standards, employer policies, and
182 collective bargaining agreements as if such individual were hired without assistance under this
183 Act.

184 (9) An individual hired for a position funded under this Act shall, no later than six
185 months from receiving his or her first paycheck, enroll in an accredited educational program
186 such as high school, GED preparation classes, vocational training program, or college, and
187 continue to attend classes throughout the term of employment.

188 (g) Award of Grants-

189 (1) SELECTION CRITERIA- In selecting a project to receive funding for employing the
190 individuals described in subsection (f)(4), the Secretary of Labor and Workforce Development
191 shall consider--

192 (A) the input of all participants in a proposed project, including labor organizations,
193 community organizations, and employers;

194 (B) the needs of the community intended to benefit from such project;

195 (C) the long-term goals and short-term objectives to address such needs; and

196 (D) any recommendations for programs and activities developed to meet such needs.

197 SECTION 4 - CORI guidelines

198 (a) Grantees receiving funding under the Justice Reinvestment Act will adhere to a
199 policy of affording a rehabilitated individual with a criminal record with a fair opportunity to be
200 employed and reintegrate successfully into the workforce, while protecting vulnerable
201 populations and the public safety. Consistent with this policy, a criminal record will not
202 automatically disqualify an Applicant from employment, unless explicitly mandated by law.

203 (b) Grantees will not conduct a CORI check or make any inquiry into an
204 Applicant's possible criminal history, or include any such inquiry on any initial employment
205 application form, until after an Applicant's credentials have been reviewed, it has determined
206 that the Applicant is otherwise qualified for a position and a conditional offer of employment has
207 been made. A funded program will not conduct a CORI check on an Applicant who is not
208 otherwise qualified for a relevant position.

209 (c) Grantees will not check an Otherwise Qualified Applicant's CORI unless a CORI
210 check is mandated by law or it determines that the position in question is of such sensitivity (for
211 example, working with a vulnerable population) that a CORI check is warranted.

212 (d) Any personnel responsible for reviewing CORI be trained on reading and interpreting
213 a CORI report. Such personnel shall be required to attend CORI training and be knowledgeable
214 about educational materials made available by DCJIS.

215 (e) Grantees will conduct a CORI check only as authorized by the DCJIS, will not rely
216 on an improperly issued CORI and will return the record to DCJIS for issuance of the
217 appropriate report, if any, whenever it might receive a report containing matters not requested or
218 otherwise authorized for release to the city.

219 (f) Grantees will consider the result of a properly issued CORI report only in those
220 instances where the content of the record is substantially relevant to the duties and qualifications
221 of a position in question.

222 (g) Grantees will follow the practices set forth below when it is inclined to deny
223 an Applicant a position because of the results of a CORI:

224 (1) Ensure that the record received pertains to the individual for whom a request was
225 made by comparing the Applicant's identifying information, such as that on a driver's license or
226 government issued identification, or CORI request form, to the information on the CORI report;

227 (2) Provide the Applicant with a copy of the CORI;

228 (3) Notify him or her of the part or parts which appear to make him or her ineligible;

229 (4) Afford the Applicant with an opportunity for a private meeting to explain the
230 accuracy and/or relevance of anything on the CORI report;

231 (5) Review the relevancy and accuracy of the CORI report by considering these factors:

232 (i) Nature, seriousness and circumstance of any past criminal conviction or pending
233 charge;

234 (ii) Age of the candidate at the time of the offense;

235 (iii) Date of the offense;

236 (iv) Relevance of the offense to the duties and qualifications of the position in question;

237 (v) Sentence imposed and length of any period of incarceration;

238 (vi) Any reasonable available information concerning compliance with conditions of
239 parole or probation, including orders of no contact with victim and witnesses;

240 (vii) The individual's conduct and experience in the time since the offense, including,
241 but not limited to, education or professional certification obtained since the time of the offense;

242 (viii) Any other evidence of rehabilitation.

243 (f) If after review the recipient makes an adverse decision, it will promptly notify the
244 Applicant in writing stating the reasons thereof.

245 (g) If a grantee determines that a CORI report received does not pertain to the individual
246 for whom a request was made, it will notify the Applicant of DCJIS's regulations and process for
247 correcting an inaccurate record, and will not rely on such a record in rendering an adverse
248 decision. The grantee may contact DCJIS and request that it conduct a detailed search consistent
249 with DCJIS's policy.

250 (h) The grantee will provide a copy of its CORI standards to any Applicant or
251 person who makes a request.

252 (i) The grantee, consistent with DCJIS policy, will not disseminate or share CORI
253 information except with those authorized personnel granted access to CORI.