SENATE DOCKET, NO. 772 FILED ON: 1/17/2013

SENATE . . . . . No. 1133

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 relative to the appropriate use of solitary confinement.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	*Middlesex and Worcester*
Elizabeth A. Malia	*11th Suffolk*
Patricia D. Jehlen	*Second Middlesex*
Byron Rushing	*9th Suffolk*
David M. Rogers	*24th Middlesex*

SENATE DOCKET, NO. 772 FILED ON: 1/17/2013

SENATE . . . . . No. 1133

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1133) of James B. Eldridge, Elizabeth A. Malia, Patricia D. Jehlen, Byron Rushing and other members of the General Court for legislation relative to the appropriate use of solitary confinement. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to the appropriate use of solitary confinement.

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. Chapter 127 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out section 39 and inserting in place thereof the following section:-

Section 39. At the request of the superintendent of any correctional institution of the commonwealth, the commissioner may authorize the confinement in a segregated unit within any correctional institution of the commonwealth, of any inmate whose continued retention in the general institution population poses a substantial threat: (1) to the safety of others; (2) of damaging or destroying property; or (3) to the operation of a state correctional facility. Segregated housing should be for the briefest term and under the least restrictive conditions practicable and consistent with the rationale for placement and with the progress achieved by the inmate.

Within 15 days of placement in a segregation unit, and at 90 day intervals thereafter, an inmate shall receive written notice of the reasons for confinement in segregation; a hearing at which he may contest the asserted reasons; and a written decision describing the evidence relied on and explaining the reasons for the decision. If placement or retention in segregation is contemplated, the written decision shall contain (1) a conditional release date that shall not exceed six months except in the most extraordinary circumstances; and (2) conditions for release that are specifically related to the reasons for the placement or retention in segregation. If the inmate meets the conditions set forth in the written decision, he shall be released from segregation.

Such segregated units shall provide regular meals, fully furnished cells, the opportunity for at least one hour per day of out-of-cell and, rights of visitation and communication by those properly authorized. Prisoners in segregated housing shall be allowed property, other privileges, and programming that is, as much as practicable, equivalent to what is provided inmates in general population, consistent with security. An emphasis shall be placed upon making individualized rehabilitative programming available which has as its goal the return of inmates to the general population. Such opportunities may be used to assess whether an inmate is appropriate for less restrictive confinement. Under the supervision of the department of mental health, all inmates confined to a segregated unit shall be given periodic medical and psychiatric examinations, and shall receive such medical and psychiatric treatment as may be indicated.

SECTION 2. Section 40 of said chapter 127, as so appearing, is hereby amended by inserting in line 4 after the words “to an isolation unit” the following words:-

,a disciplinary unit, or any cell where the inmate is confined to his cell for approximately 23 hours per day.

SECTION 3. Section 40 of said chapter 127, as so appearing, hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

All isolation and disciplinary units, or any cell where the inmate is confined to his cell for approximately 23 hours per day, must provide light, ventilation, adequate sanitary facilities, adequate clothing, regular meals, and the opportunity for recreation five days each week for at least one hour per day, and may contain a minimum of furniture. Under the supervision of the department of mental health, all inmates confined to isolation and disciplinary units shall be given periodic medical and psychiatric examinations, and shall receive such medical and psychiatric treatment as may be indicated.