

SENATE No. 1030

The Commonwealth of Massachusetts

PRESENTED BY:

Kenneth J. Donnelly

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 provide critical community health services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>

SENATE No. 1030

By Mr. Donnelly, a petition (accompanied by bill, Senate, No. 1030) of Kenneth J. Donnelly, Jose F. Tosado and Mathew Muratore for legislation to provide critical community health services. Mental Health and Substance Abuse.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act to provide critical community health services.

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 1 of chapter 123 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by inserting after the word "health." in line 4, the following:-
3

4 ““Critical community health services”, behavioral health, health, and social services that
5 can be provided in a community setting, and do not require continuous inpatient hospitalization.

6 “Critical community health service treatment plan”, a plan defining a set of health,
7 behavioral health, and or social services delivered to an individual.”;

8 and, further, by inserting after the word "program." in line 18, the following:-

9 ““Gravely disabled", a condition evidenced by behavior in which a person, as a result of a
10 mental disorder, is at substantial risk of inflicting serious harm to himself or others, and has

11 shown an inability to provide for his basic physical needs, including medical and psychiatric
12 treatment and shelter because of the mental disorder.”;

13 and, further, by inserting after the word "movement." in line 83, the following:-

14 ““Service plan”, a critical community health service treatment plan.”;

15 and, further, by inserting after the word” facility.” in line 88, the following: -

16 ““Supervising mental health professional”, any person who holds himself out to the
17 general public as one providing mental health services and who is required pursuant to such
18 practice to obtain a license from the commonwealth or who, at the discretion of the court, is
19 deemed suitable to supervise a critical community health service treatment plan.”.

20 SECTION 2. Chapter 123 of the General Laws, as so appearing, is hereby amended by
21 inserting after section 8, the following new section:-

22 Section 8 1/2. (a) Any physician licensed pursuant to section 2 of chapter 112 after
23 examining a patient, the Department of Mental Health, any person eighteen years of age or older
24 with whom the subject of the petition resides, the parent, spouse, sibling eighteen years of age
25 or older, child eighteen years of age or older of the subject of the petition, the superintendent of
26 any public or private facility or hospital authorized for the commitment or treatment of mentally
27 ill persons, or the medical director of the Bridgewater state hospital, may petition the district
28 court in whose jurisdiction a facility is located that shall provide critical community health
29 services for any individual who (1) is mentally ill, (2) is at least 18 years old and (3) meets the
30 following criteria:

31 (i) is gravely disabled;

32 (ii) has a history of lack of compliance with treatment for mental illness that has:

33 A. Prior to the filing of the petition, at least twice within the last thirty-six months,
34 been a significant factor in necessitating hospitalization, or receipt of mental health services in a
35 forensic or Department of Correction correctional facility or house of corrections or the
36 Bridgewater state hospital; or

37 B. Prior to the filing of the petition, resulted in one or more acts of serious violent
38 behavior toward self or others or threats of , or attempts at, serious physical harm to self or
39 others within the last thirty-six months;

40 (iii) based on his or her treatment history and current behavior, is in need of critical
41 community health services in order to prevent a relapse or deterioration which would be likely
42 to result in serious harm to the person or others, and

43 (iv) is likely to benefit from critical community health services.

44 The petition shall include a written service plan prepared in consultation with, when
45 possible, those familiar with the patient, the superintendent or physician in charge of the care of
46 the patient, and or those familiar with the case history of the patient. The plan shall include each
47 of the following:

48 (1) a statement of the requirements for supervision, medication, and assistance in
49 obtaining the basic needs such as employment, food, clothing, and shelter;

50 (2) if known, the address of the residence where the patient resides and the name of
51 the person or persons in charge of the residence;

52 (3) if known, the name and address of any person, agency, or organization assigned to
53 supervise a critical community health service treatment plan or care for the patient; and

54 (4) the conditions for continued receipt of critical community health services, which
55 may require reporting, continuation of medication, submission to testing, or other such
56 reasonable conditions.

57 (b) A petition for critical community health services may be filed along with or as an
58 alternative to a petition for inpatient commitment under section 7 or 8(a).

59 (c) A hearing shall be commenced within 4 days of the filing of the petition. The periods
60 of time prescribed or allowed under the provisions of this section shall be computed pursuant to
61 Rule 6 of the Massachusetts Rules of Civil Procedure. Adjournments shall be permitted only for
62 good cause shown. In granting adjournments, the court shall consider the need for further
63 examination by a physician or the potential need to provide treatment expeditiously.

64 (d) A court may not issue a critical community service health service treatment plan
65 unless it finds that providing critical community health services is the least restrictive alternative
66 available to the person.

67 (e) If, after the hearing, the court finds by clear and convincing evidence that the subject
68 of the petition meets the criteria for critical community health services included in subsection (a),
69 the court may order the supervising mental health professional of an appropriate treatment
70 program to supervise the plan for such services.

71 Critical community health services shall not be ordered unless the court approves a
72 written critical community health service treatment plan presented to the court which conforms

73 to the requirements of this section and which contains the name of the designated director of the
74 facility that will supervise and administer the service plan.

75 (f) The first order for critical community health services shall not exceed 180 days, and
76 any subsequent order shall not exceed 365 days.

77 (g) Before an order for critical community health services may commence, the patient
78 shall be provided with copies of the court order and full explanations of the approved service
79 plan. The approved service plan shall be filed with the court and the supervising mental health
80 professional in charge of the patient's service plan.

81 (h) During any period in which an individual receives critical community health services,
82 the patient or the supervising mental health professional may petition the court to amend the
83 critical community health service treatment plan. The court may order an amended service plan
84 or, if contested, the court may order a hearing on the amended plan. If an amended service plan
85 is contested, the party wishing to amend the service plan shall provide the opposing party the
86 proposed amended service plan at least 7 days before the filing of a petition.

87 (i) A supervising mental health professional may petition the court for a hearing if the
88 supervising mental health professional has determined that the patient is not complying with the
89 critical community health service treatment plan.

90 (1) Upon receipt of notice from the supervising mental health professional, the court
91 shall appoint counsel, if necessary, and schedule a service plan non-compliance hearing for a
92 date no less than 7 days and not more than 14 days later except in extraordinary circumstances,
93 as determined by the court. The court shall create a standard "notice of service plan non-

94 compliance” form, which the monitor shall complete with times and dates of alleged non-
95 compliance of the patient.

96 (2) The notice of service plan non-compliance shall set forth the conditions of plan
97 that the supervising mental health professional alleges have not been complied with, shall order
98 the patient to appear at a specific date and time for the non-compliance hearing, and shall be
99 delivered to all parties to the original proceeding under which the service plan order was issued.

100 (3) Service plan non-compliance hearings shall proceed in two distinct steps, the first to
101 adjudicate the factual issue of whether the plan is being complied with and the second to
102 determine the disposition of the matter, if plan non-compliance is found by the court to have
103 occurred.

104 (4) If the court finds that the patient has not complied with one or more conditions of
105 the service plan as alleged, the supervising mental health professional shall recommend to the
106 court a course of immediate action and may present argument and evidence in support of that
107 recommendation. If the court determines that the patient is not complying with the terms of the
108 order, the court may amend the service plan as the court deems necessary. The amended order
109 may alter the service plan, or the court may request, under the provisions of section 12 of this
110 chapter, an emergency evaluation to determine whether the failure to hospitalize such person
111 would create a likelihood of serious harm.

112 (j) The supervising mental health professional shall require periodic reports, not more
113 frequently than every 30 days, concerning the condition of patients receiving critical community
114 health services from any person, agency, or organization assigned to treat such patients.

115 (k) The supervising mental health professional shall review the condition of a patient
116 ordered to receive critical community services at least once every 30 days.

117 (l) The supervising mental health professional may, at any time, petition the court for
118 termination of a critical community health service plan if the supervising mental health
119 professional determines that critical community health services are no longer the least restrictive
120 appropriate treatment available.

121 (m) Nothing in this section shall prevent the supervising mental health professional from
122 authorizing involuntary commitment and treatment in an emergency under section 12 of this
123 chapter.

124 (n) The patient, his or her representative or guardian may petition for termination of an
125 order for critical community health services order.

126 (o) All hearings under this section shall be conducted by a judge consistent by the
127 requirements of this chapter and applicable law with such flexibility and informality as the court
128 may deem appropriate. The patient shall be entitled to the assistance of counsel and the court if
129 necessary shall appoint counsel.

130 (p) Reasonable expense incurred in providing critical community health services may be
131 paid out of the estate of a patient, by the petitioner, or, by the commonwealth, as may be
132 determined by the court.

133 SECTION 3. Section 9 of said chapter 123 of the General Laws, as so appearing, is
134 hereby amended by inserting after the words “of section eight B.” in line 37, the following:- Any

135 person may apply to the court stating his or her belief that a person currently receiving critical
136 community health services under section 8 1/2 should no longer be so treated.