

SENATE No. 1297

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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 segregation oversight.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Ruth B. Balseer</i>	<i>12th Middlesex</i>	<i>1/23/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>1/31/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/2/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/2/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/3/2017</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>2/3/2017</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>5/1/2017</i>

SENATE No. 1297

By Ms. Creem, a petition (accompanied by bill, Senate, No. 1297) of Cynthia S. Creem, Ruth B. Balser, Barbara A. L'Italien, James B. Eldridge and other members of the General Court for legislation relative to segregation oversight. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to segregation oversight.

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 127 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting the following definitions:

3 “Disciplinary segregation,” the segregation of a prisoner from the general population, in a
4 segregation unit or other housing unit, for the purpose of disciplining the prisoner.

5 “Isolation unit,” a housing unit, segregation unit, or disciplinary unit, including the
6 Departmental Disciplinary Unit, in which prisoners are segregated from the general population in
7 single or joint cells, whether for disciplinary or non-disciplinary reasons, and are not provided
8 privileges and conditions equivalent to the general population.

9 “Non-disciplinary segregation,” the segregation of a prisoner from the general
10 population, in a segregation unit or other housing unit, for administrative purposes or for reasons
11 unrelated to the enforcement of discipline. Non-disciplinary segregation shall not include
12 segregation for documented medical reasons or mental health emergencies.

13 “Segregation unit,” a housing unit, isolation unit, or disciplinary unit, including the
14 Departmental Disciplinary Unit, in which prisoners are segregated from the general population in
15 single or joint cells, whether for disciplinary or non-disciplinary reasons, and are not provided
16 privileges and conditions equivalent to the general population.

17 SECTION 2. Said chapter 127, as so appearing, is hereby amended by inserting after
18 section 39A the following section:

19 Section 39B. Segregation oversight.

20 A segregation oversight committee shall be convened to gather information regarding the
21 use of disciplinary segregation and non-disciplinary segregation in Massachusetts correctional
22 institutions, jails and houses of correction, to determine the impact of such confinement on
23 prisoners, rates of violence and self-harm within correctional institutions, recidivism, and
24 incarceration costs.

25 (1) The oversight committee shall consist of seven members: 1 member from
26 corrections appointed by the Department of Correction, 1 sheriff appointed by the sheriff’s
27 association, 1 former judge appointed by the Chief Justice of the Supreme Judicial Court, 1 staff
28 member from the Disability Law Center, appointed by its director, 1 staff member from
29 Prisoners’ Legal Services, appointed by its director, 1 staff member from the Massachusetts
30 Association for Mental Health, appointed by its director and 1 licensed social worker, appointed
31 by the director of National Association of Social Workers, Massachusetts chapter.

32 (2) The members of the oversight committee shall be provided full and unfettered
33 access to all Massachusetts state prisons and houses of corrections, and shall be allowed to
34 interview prisoners and staff.

- 35 (3) The oversight committee shall gather information regarding:
- 36 (i) Criteria for placing a prisoner in non-disciplinary segregation;
- 37 (ii) Specialized training provided to staff working with prisoners in disciplinary and
38 non-disciplinary segregation;
- 39 (iii) The effectiveness of step-down units to transition prisoners from disciplinary and
40 non-disciplinary segregation to general population units or to the community;
- 41 (iv) The effect that reducing the use of segregation has on the rate of prison violence
42 and self-harm by prisoners and on the State's recidivism rates; and
- 43 (v) Other relevant information as identified by the oversight committee.
- 44 (4) The oversight committee shall receive quarterly data and statistics from the
45 department and each sheriff concerning but not limited to the following for each correctional
46 institution, jail, and house of correction, and covering the entire quarterly period:
- 47 (i) The number of prisoners in disciplinary segregation;
- 48 (ii) The disciplinary sentence length of those prisoners in disciplinary segregation;
- 49 (iii) The number of prisoners in non-disciplinary segregation;
- 50 (iv) The length of time those prisoners have been held in non-disciplinary
51 segregation;
- 52 (v) The number of times a particular prisoner has been placed in segregation for that
53 quarterly reporting period;

54 (vi) The number of prisoners in disciplinary and non-disciplinary segregation,
55 respectively, designated as having serious mental illness (SMI);

56 (vii) The number of prisoners in disciplinary and non-disciplinary segregation,
57 respectively, with a diagnosed mental illness;

58 (vii) The number of prisoners in disciplinary and non-disciplinary segregation,
59 respectively, with a significant cognitive impairment or identified learning disability;

60 (viii) The number of prisoners in disciplinary and non-disciplinary segregation,
61 respectively, who have requested reasonable accommodations for a disability while in
62 segregation;

63 (ix) The number of prisoners in disciplinary and non-disciplinary segregation,
64 respectively, who have received reasonable accommodations for a disability while in
65 segregation;

66 (x) The number of prisoners in disciplinary and non-disciplinary segregation,
67 respectively, who have a disability;

68 (xi) The number of mental health professionals who work directly with prisoners in
69 disciplinary and non-disciplinary segregation, respectively;

70 (xi) The number of suicides and, separately, acts of non-lethal self-harm, committed
71 by prisoners held in disciplinary and non-disciplinary segregation, respectively;

72 (xii) The number of planned uses of force on prisoners held in disciplinary and non-
73 disciplinary segregation, respectively;

74 (xiii) The number of times prisoners held in disciplinary and non-disciplinary
75 segregation were placed on mental health watch and for how long they were on mental health
76 watch status;

77 (xiv) The number of transfers to outside hospitals and psychiatric hospitals directly
78 from disciplinary and non-disciplinary segregation, respectively;

79 (xv) The racial composition of prisoners in disciplinary and non-disciplinary
80 segregation, respectively;

81 (xvi) The number of prisoners in disciplinary and non-disciplinary segregation,
82 respectively, who did not complete high school;

83 (xvii) The number of prisoners released directly from disciplinary and non-disciplinary
84 segregation, respectively, to the community;

85 (xvii) The number of prisoners released from disciplinary and non-disciplinary
86 segregation, respectively, within six months of release to the community;

87 (xviii) The number of prisoners removed from disciplinary and non-disciplinary
88 segregation, respectively, due to mental decompensation;

89 (xix) The number of prisoners in non-disciplinary segregation who are in segregation
90 for protective custody reasons;

91 (xx) The number of prisoners in disciplinary and non-disciplinary segregation,
92 respectively, who are lesbian, gay, bisexual, transgender, or intersex;

93 (xxi) The number of prisoners in disciplinary and non-disciplinary segregation,
94 respectively, who are twenty-one years old or younger;

95 (xxii) The number of prisoners in disciplinary and non-disciplinary segregation,
96 respectively, who are fifty-five years old or older;

97 (xxiii) The number of prisoners in disciplinary and non-disciplinary segregation,
98 respectively, who are sixty-five years old or older; and

99 (xxiv) Other relevant data and statistics as identified by the oversight committee.

100 (5) The oversight committee shall publish a report compiling this information and
101 data annually, with the first report being published within one year of the passage of this Act.
102 The oversight committee shall make said report publicly available and shall deliver copies of
103 said report to all relevant legislative committees.

104 (6) The report of the segregation oversight committee shall offer recommendations
105 geared towards limiting the number of prisoners in disciplinary and non-disciplinary segregation
106 in Massachusetts and ensuring segregation is used as a tool of last resort in narrow, well-defined
107 circumstances. The recommendations shall include, but are not limited to:

108 (i) Recommendations as to how the department and each sheriff can adopt a step-
109 down program so that all prisoners in segregation can be returned to general population within
110 fifteen days;

111 (ii) Recommendations as to steps the department and each sheriff can take to restrict
112 the use of segregation;

113 (iii) Recommendations as to how the department and each sheriff can ensure that
114 prisoners experience continuity in programming during segregation;

115 (iv) Recommendations as to how the department and each sheriff can ensure that no
116 prisoners with serious mental illness or who are otherwise considered vulnerable populations
117 excludable from segregation under current law are placed in segregation;

118 (v) Recommendations as to how the department and each sheriff can deliver
119 meaningful mental health treatment to prisoners in segregation;

120 (vi) Recommendations as to how the department and each sheriff can limit the
121 infractions resulting in segregation placement; and

122 (vii) Recommendations as to how the department and each sheriff can ensure that no
123 prisoner is released directly from segregation to the community.