

HOUSE No. 2087

The Commonwealth of Massachusetts

PRESENTED BY:

Mary S. Keefe

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 create uniform standards in use of force, increase transparency, and reduce harm.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/17/2019</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>1/29/2019</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/29/2019</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>2/1/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/31/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/1/2019</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/31/2019</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>1/31/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/1/2019</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>1/27/2019</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>1/17/2019</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/2/2019</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>1/24/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/31/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/1/2019</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/1/2019</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>1/30/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/30/2019</i>

<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/25/2019</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/31/2019</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>1/30/2019</i>

HOUSE No. 2087

By Ms. Keefe of Worcester, a petition (accompanied by bill, House, No. 2087) of Mary S. Keefe and others that the Commissioner of Correction establish uniform standards regarding entrance of cell procedures, the use of chemical agents and restraint chairs, and the reporting and transparency of use of force. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

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

An Act to create uniform standards in use of force, increase transparency, and reduce harm.

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 of chapter 124 of the General Laws, as appearing in the 2016 Official Edition,
2 is hereby amended by adding the following subsections:-

3 (v) establish uniform minimum standards for state and county correctional facilities
4 regarding entrance of cell procedures. The standards shall establish the process for: (i) an
5 emergency entrance of cell procedure; and (ii) a planned entrance of cell procedure; provided
6 that a planned entrance of cell procedure shall include a twenty four hour cooling off period prior
7 to any use of force whenever this would not place any person at risk of death or serious bodily
8 injury and shall include intervention by a qualified mental health professional, as defined in
9 section 1 of chapter 127, who shall actively seek to resolve the issue without use of force, before
10 a correctional officer enters the cell.

11 The standards shall instruct superintendents of all institutions under the jurisdiction of the
12 department of correction and the superintendents and keepers of jails and houses of correction
13 that an emergency entrance of cell procedure shall only be used when time is of the essence
14 where the failure to take immediate action would place a person in imminent risk of death or
15 serious bodily injury. The standards shall further instruct that if emergency entrance of cell is
16 being conducted because an inmate is attempting or committing suicide, chemical agents shall
17 not be used.

18 The standards shall require correctional officers to wear a personal audio-video recording
19 device attached to the officer's clothing, helmet, or sunglasses that is capable of capturing video
20 and audio recordings from the officer's point of view, which shall be activated during planned
21 entrance of cell procedures, emergency entrance of cell procedures, and all other uses of force. A
22 correctional officer shall be prohibited from viewing or listening to any video or audio recording
23 prior to submitting a report regarding the use of force. All video recordings from all activated
24 personal audio-video recording devices, all fixed cameras, and all handheld or other cameras
25 which captured any part of any use of force incident shall be made available to any involved
26 inmate to review upon their request and copies shall be provided to any person with the written
27 release of any involved inmate.

28 The standards shall detail acceptable equipment for use during a planned entrance of cell
29 procedure or an emergency entrance of cell procedure; provided that the standards shall prohibit
30 the use of kinetic impact weapons and law enforcement K-9s.

31 (w) establish uniform minimum standards for all state and county correctional facilities
32 governing the use of chemical agents. The standards shall: (i) identify all chemical agents which

33 are deemed an acceptable use of force; (ii) establish protocols for situations when chemical
34 agents may not be used, including but not limited to, on an inmate with intellectual disabilities,
35 respiratory illnesses, or cardiac disease; (iii) define the required authorization for staff prior to
36 the use of chemical agents, which shall include that whenever time permits mental health staff
37 must make every effort to speak to the inmate and affirm that the inmate does not have a
38 cognitive, psychiatric, or other disability or impairment inhibiting their ability to understand or
39 comply with staff orders; and (iv) establish protocols for decontamination of inmates as soon as
40 possible following exposure to each type of chemical agent identified pursuant to clause (i),
41 including but not limited to an opportunity for a shower and eye flush.

42 (x) establish uniform minimum standards for all state and county correctional facilities
43 governing the use of restraint chairs, including but not limited to the following: (i) a restraint
44 chair may only be used when it is the least restrictive means available to prevent substantial
45 threat of imminent harm; (ii) an inmate confined to a restraint chair must be checked by medical
46 staff and offered an opportunity to exercise at least every thirty minutes while in the restraint
47 chair; (iii) an inmate may not be confined to a restraint chair any longer than the restraint chair
48 remains the least restrictive means available to prevent substantial threat of imminent harm; (iv)
49 a restraint chair may never be utilized automatically following a use of force, and the substantial
50 threat of imminent harm that justifies use of the restraint chair must in all cases be documented
51 in writing, with copies of the documentation provided to the inmate upon request or to any other
52 person with release by the inmate.

53 (y) establish uniform minimum standards for all state and county correctional facilities
54 regarding use of force data requiring, at a minimum, the following data to be collected and
55 provided to any person upon request as well as published, quarterly, on the agency's website: (i)

56 the number of incidents facility-wide, (ii) the number of incidents in restrictive housing, (iii) the
57 number of incidents during mental health watches, (iv) the number of incidents involving
58 inmates who are being treated for psychiatric disabilities, (v) the number of incidents by race of
59 involved inmates and by race of involved staff, (vi) the number of incidents resulting in injury to
60 the inmate, (vii) the number of incidents resulting in injury to staff, (viii) the number of incidents
61 involving use of chemical agents, (ix) the number of incidents involving use of restraint chair,
62 (x) the number of incidents involving use of any kinetic impact weapon, (xi) the number of
63 incidents involving K9, and (xii) the number of incidents involving any other use of force tool.
64 Each data point shall include a breakdown by planned use of force, spontaneous cell entry, and
65 other use of force.

66 (z) establish uniform minimum standards for transparency in use of force, including but
67 not limited to the following: (i) An inmate and the inmate's legally designated representative
68 shall have the right to obtain a copy of all records relating to any use of force incident involving
69 the inmate, including but not limited to written reports, investigations, video and audio
70 recordings, and photographs; (ii) All such records are also public records, except that records
71 access officers must redact the name and identifying information of any involved inmate before
72 providing the records to any requestor who is not the involved inmate or who does not have a
73 release from the involved inmate.