

HOUSE No. 3274

The Commonwealth of Massachusetts

PRESENTED BY:

Michael S. Day and Marjorie C. Decker

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 access to justice.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---------------------------|------------------------------------|
| <i>Michael S. Day</i> | <i>31st Middlesex</i> |
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> |
| <i>Steven Ultrino</i> | <i>33rd Middlesex</i> |
| <i>Carolyn C. Dykema</i> | <i>8th Middlesex</i> |
| <i>Tram T. Nguyen</i> | <i>18th Essex</i> |
| <i>Thomas M. Stanley</i> | <i>9th Middlesex</i> |
| <i>Adrian C. Madaro</i> | <i>1st Suffolk</i> |
| <i>Tommy Vitolo</i> | <i>15th Norfolk</i> |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> |
| <i>Joseph A. Boncore</i> | <i>First Suffolk and Middlesex</i> |
| <i>Mike Connolly</i> | <i>26th Middlesex</i> |
| <i>Denise Provost</i> | <i>27th Middlesex</i> |
| <i>David M. Rogers</i> | <i>24th Middlesex</i> |
| <i>Russell E. Holmes</i> | <i>6th Suffolk</i> |
| <i>Carlos González</i> | <i>10th Hampden</i> |
| <i>Natalie M. Higgins</i> | <i>4th Worcester</i> |

| | |
|---------------------------------|--------------------------------|
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> |
| <i>Jennifer E. Benson</i> | <i>37th Middlesex</i> |
| <i>Tami L. Gouveia</i> | <i>14th Middlesex</i> |
| <i>Carmine Lawrence Gentile</i> | <i>13th Middlesex</i> |
| <i>Mindy Domb</i> | <i>3rd Hampshire</i> |
| <i>Andres X. Vargas</i> | <i>3rd Essex</i> |
| <i>Lori A. Ehrlich</i> | <i>8th Essex</i> |
| <i>Liz Miranda</i> | <i>5th Suffolk</i> |
| <i>Daniel R. Cullinane</i> | <i>12th Suffolk</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> |
| <i>Jonathan Hecht</i> | <i>29th Middlesex</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> |
| <i>William J. Driscoll, Jr.</i> | <i>7th Norfolk</i> |
| <i>Michelle L. Ciccolo</i> | <i>15th Middlesex</i> |
| <i>Daniel J. Ryan</i> | <i>2nd Suffolk</i> |
| <i>Stephan Hay</i> | <i>3rd Worcester</i> |
| <i>James K. Hawkins</i> | <i>2nd Bristol</i> |
| <i>Brendan P. Crighton</i> | <i>Third Essex</i> |
| <i>Julian Cyr</i> | <i>Cape and Islands</i> |

HOUSE No. 3274

By Representatives Day of Stoneham and Decker of Cambridge, a petition (accompanied by bill, House, No. 3274) of Michael S. Day, Marjorie C. Decker and others relative to interviews or questioning conducted for immigration investigations or enforcement purposes. The Judiciary.

The Commonwealth of Massachusetts

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

An Act relative to access to justice.

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 24 of chapter 37 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by inserting after clause (e) the following clause:-

3 (f) federal detainees housed in their facilities to and from the several divisions or
4 departments of the trial court, pursuant to a valid state court writ of habeas corpus.

5 SECTION 2. Chapter 147 of the General Laws is hereby amended by inserting after
6 section 62 the following section:-

7 Section 63. (a) An interview or any questioning conducted for immigration investigation
8 or enforcement purposes of a person in the custody of any state or local law enforcement agency,
9 sheriff’s office, the department of correction, or Massachusetts court, shall take place only with
10 the written informed consent of the person in custody, unless otherwise required by federal law.
11 If the person in custody indicates that they wish to have an attorney present for an interview with
12 a federal agent, the custodian shall allow them to contact such attorney, and in the case that no

13 attorney can be present, the interview shall not take place. The custodian agency shall not be
14 responsible for the payment of the person's attorney's fees and expenses.

15 (b) The office of the attorney general shall prepare a uniform consent form in English and
16 other languages commonly spoken in Massachusetts for use pursuant to subsection (a), which
17 shall: (i) explain the purpose of the interview, that the interview is voluntary, that the person may
18 decline to be interviewed or may choose to be interviewed only with an attorney present, and that
19 the person may decline to sign any documents presented to them at the interview; and (ii)
20 document the person's consent or lack thereof, whether an interview took place, and, if so,
21 whether an attorney was present. Custodian agencies shall make their best efforts to provide a
22 form in a language that the person understands, and to provide interpretation if needed. Consent
23 forms shall be public records as defined in clause Twenty-sixth of section 7 of chapter 4,
24 provided that the name, address, phone number and other personal identifying information
25 regarding the interview subject shall not be a public record.

26 (c) The provisions of paragraphs (a) and (b) shall not apply to persons in federal custody
27 who are held in a state or local facility pursuant to an intergovernmental contract.

28 (d) Court officers, clerks, probation department employees, other trial court
29 administrative personnel, prosecutors, and personnel of the prosecutor's office, may provide
30 federal agencies or agents with information relating to any person involved in matters before the
31 court only upon request and in the same manner and to the same extent as such information is
32 lawfully made available to the general public. Such officials shall not otherwise notify federal
33 agencies or agents of the presence of individuals attending proceedings in Massachusetts
34 courthouses, unless required by federal law.

35 (e) The superior court in the county where the person is held shall be authorized to hear
36 any claim in law or equity arising from violation of this section.

37 SECTION 3. Section 3 of chapter 258B of the General Laws, as appearing in the 2016
38 Official Edition, is hereby amended by inserting after clause (w) the following clause:-

39 (x) for victims, family members, and witnesses, to not be asked by a law enforcement
40 agency, the prosecutor, personnel in the prosecutor's office, trial court personnel, or parole,
41 probation or corrections officials about their immigration status, or the immigration status of
42 their family members, unless such inquiry is required by federal or state law; provided that a
43 judge or magistrate may make such inquiries as are necessary to adjudicate matters within their
44 jurisdiction. The court may enter orders or conditions to maintain limited disclosure of any
45 information regarding immigration status as it deems appropriate to protect the liberty interests
46 of victims, family members and witnesses.