HOUSE No. 1341

The Commonwealth of Massachusetts

PRESENTED BY:

Ruth B. Balser

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 collect data on LGBTQI prisoners held in restrictive housing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Ruth B. Balser	12th Middlesex	1/15/2019
Julian Cyr	Cape and Islands	1/31/2019
Rebecca L. Rausch	Norfolk, Bristol and Middlesex	1/22/2019
Jason M. Lewis	Fifth Middlesex	1/23/2019
Carlos González	10th Hampden	1/23/2019
Michael O. Moore	Second Worcester	1/23/2019
Dylan A. Fernandes	Barnstable, Dukes and Nantucket	1/23/2019
Steven Ultrino	33rd Middlesex	1/24/2019
David Paul Linsky	5th Middlesex	1/25/2019
Christine P. Barber	34th Middlesex	1/25/2019
Sarah K. Peake	4th Barnstable	1/28/2019
Christina A. Minicucci	14th Essex	1/25/2019
Carmine Lawrence Gentile	13th Middlesex	1/25/2019
Tommy Vitolo	15th Norfolk	1/27/2019
Sean Garballey	23rd Middlesex	1/28/2019
Mary S. Keefe	15th Worcester	1/28/2019
Jack Patrick Lewis	7th Middlesex	1/22/2019
Maria Duaime Robinson	6th Middlesex	1/23/2019

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HOUSE No. 1341

By Ms. Balser of Newton, a petition (accompanied by bill, House, No. 1341) of Ruth B. Balser and others relative to reporting requirements for the Department of Correction regarding the use of solitary confinement for LGBTQI prisoners. The Judiciary.

The Commonwealth of Alassachusetts

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

An Act to collect data on LGBTQI prisoners held in restrictive housing.

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 93 of chapter 69 of the acts of 2018 is hereby amended by inserting
- 2 after the word "committee," in line 87, the following words:- "and to the special commission to
- 3 study the health and safety of lesbian, gay, bisexual, transgender, queer and intersex prisoners in
- 4 correctional institutions, jails and houses of correction".
- 5 SECTION 2. Section 93 of chapter 69 of the acts of 2018 is hereby amended by striking
- 6 out, in line 87, the word "annually" and inserting in place thereof the following word:- "bi-
- 7 annually".
- 8 SECTION 3. Section 93 of chapter 69 of the acts of 2018 is hereby amended by inserting
- 9 after the word "made," in line 89, the following words:- "delineated by diagnosis".
- SECTION 4. Section 93 of chapter 69 of the acts of 2018 is hereby amended by striking
- out, in line 89, the figure "30" and inserting in place thereof the following figure:- "15".

- SECTION 5. Section 93 of chapter 69 of the acts of 2018 is hereby amended by striking out, in line 91, the words "as to prisoners in disciplinary restrictive housing".
- SECTION 6. Section 93 of chapter 69 of the acts of 2018 is hereby amended by striking out, in line 94, the word "discipline" and inserting in place thereof the following words:
 "restrictive housing"

- SECTION 7. Section 93 of chapter 69 of the acts of 2018 is hereby amended by inserting after the word "ethnicity," in line 93, the following words:- "and, if known, the voluntary self-identified sexual orientation, as defined in section 3 of chapter 151B, and gender identity, as defined in section 7 of chapter 4, of each prisoner subjected to restrictive housing, whether the prisoner was pregnant during time spent in restrictive housing"
- SECTION 8. Section 93 of chapter 69 of the acts of 2018 is hereby amended by inserting after the word "housing," in line 91, the following words:- "including, but not limited to, the number of prisoners held in restrictive housing based on allegations or investigations of Prison Rape Elimination Act (PREA) violations and the number of prisoners held in restrictive housing who are the subject of PREA violations".
- 27 SECTION 9. Section 93 of Chapter 69 of the Acts of 2018 is here by amended by striking 28 out, in line 102, the word "and".
 - SECTION 10. The 19th paragraph of section 93 of chapter 69 of the acts of 2018 is hereby amended by adding the following clauses:- (xii) the number of prisoners subjected to restrictive housing; (xiii) the number of prisoners held in restrictive housing for more than 15 days; (xiv) the number of prisoners 21 years of age or younger subjected to restrictive housing; (xv) the number of pregnant prisoners subjected to restrictive housing; (xvi) the racial and ethnic

composition of prisoners subjected to restrictive housing; (xvii) the sexual orientation and gender identity composition of prisoners subjected to restrictive housing who have voluntarily disclosed during Prison Rape Elimination Act (PREA) screenings or voluntarily disclose and self-identify at any other time during their incarceration their sexual orientation, as defined in section 3 of chapter 151B, or gender identity, as defined in section 7 of chapter 4; (xviii) the number of prisoners subjected to multiple stays in restrictive housing in a given reporting period; (xix) the rate of recidivism for individuals that were subject to restrictive housing;

SECTION 11. Section 93 of chapter 69 of the acts of 2018 is hereby amended by adding after the 20th paragraph the following paragraph:- "The commissioner with consultation from the administrators of county correctional facilities, the Massachusetts Department of Public Health, the Massachusetts Department of Youth Services, the Fenway Institute, and input from other stakeholders shall develop policies and procedures for prisoners to voluntarily disclose their sexual orientation and/or gender identity during initial intake to state and county correctional facilities and upon placement in restrictive housing. The collection of sexual orientation or gender identity information voluntarily provided by prisoners placed in or currently held in restrictive housing must be collected by members of the special commission on the health and safety of lesbian, gay, bisexual, transgender, queer, and intersex prisoners".

SECTION 12. Section 218 of chapter 69 of the acts of 2018 is hereby amended by striking out subsections (b) and (c), and inserting in place thereof the following subsections:-

(b) The special commission shall consist of 10 members: 1 of whom shall be appointed by the department of correction who works in corrections; 1 of whom shall be a sheriff appointed by the Massachusetts Sheriffs Association; 1 of whom shall be a former judge appointed by the

chief justice of the supreme judicial court; 1 of whom shall be appointed by the governor who shall be a representative of a healthcare provider with expertise in transgender healthcare; 1 of whom shall be appointed by the national association of social workers; 1 of whom shall be appointed by Prisoners' Legal Services; and 4 members shall be appointed by the attorney general, 2 of whom shall be a representative of an organization specializing in the advocacy, education, direct service and organizing of currently and formerly incarcerated lesbian, gay, bisexual, transgender and queer individuals and 2 of whom shall be a representative of legal advocates with expertise in advocating for lesbian, gay, bisexual, transgender, queer and intersex individuals in the criminal justice system.

(c) The members of the special commission shall be provided access to all state prisons and houses of correction in the commonwealth and shall be allowed to interview prisoners and staff to the extent practicable. The special commission shall gather information that includes, but shall not be limited to: (i) the number of prisoners who have received diagnoses of gender dysphoria or transition-related healthcare; (ii) the number of prisoners who have been denied diagnoses of gender dysphoria or transition-related healthcare; (iii) the number of denied requests for an alternative housing or facility placement by prisoners in connection with their gender identity and the reasons for the denial; (iv) the sexual orientation and gender identity composition of prisoners held in restrictive housing who have voluntarily disclosed and self-identified their sexual orientation, as defined in section 3 of chapter 151B, and/or gender identity, as defined in section 7 of chapter 4; and (v) training provided to department staff and contracted health professionals on lesbian, gay, bisexual, transgender, queer and intersex cultural competency.