SENATE DOCKET, NO. 926 FILED ON: 1/16/2019

SENATE . . . . . No. 1401

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 protect the civil rights and safety of all Massachusetts residents.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
James B. Eldridge	*Middlesex and Worcester*	
Ruth B. Balser	*12th Middlesex*	
Liz Miranda	*5th Suffolk*	
Nika C. Elugardo	*15th Suffolk*	*1/29/2019*
Lindsay N. Sabadosa	*1st Hampshire*	*1/17/2019*
Tami L. Gouveia	*14th Middlesex*	*1/18/2019*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*1/24/2019*
Patricia D. Jehlen	*Second Middlesex*	*1/18/2019*
Jack Patrick Lewis	*7th Middlesex*	*1/22/2019*
Carmine Lawrence Gentile	*13th Middlesex*	*1/22/2019*
Rebecca L. Rausch	*Norfolk, Bristol and Middlesex*	*1/22/2019*
Mike Connolly	*26th Middlesex*	*1/22/2019*
William N. Brownsberger	*Second Suffolk and Middlesex*	*1/23/2019*
Jason M. Lewis	*Fifth Middlesex*	*1/23/2019*
Thomas M. Stanley	*9th Middlesex*	*1/23/2019*
Denise Provost	*27th Middlesex*	*1/23/2019*
Sonia Chang-Diaz	*Second Suffolk*	*1/24/2019*
Cynthia Stone Creem	*First Middlesex and Norfolk*	*1/28/2019*

Julian Cyr	*Cape and Islands*	*1/24/2019*
José F. Tosado	*9th Hampden*	*1/25/2019*
James T. Welch	*Hampden*	*1/28/2019*
Harriette L. Chandler	*First Worcester*	*1/28/2019*
Edward J. Kennedy	*First Middlesex*	*1/28/2019*
Mary S. Keefe	*15th Worcester*	*1/28/2019*
Michael J. Barrett	*Third Middlesex*	*1/29/2019*
Jennifer E. Benson	*37th Middlesex*	*1/29/2019*
Kay Khan	*11th Middlesex*	*1/30/2019*
Joseph A. Boncore	*First Suffolk and Middlesex*	*1/30/2019*
Marcos A. Devers	*16th Essex*	*1/30/2019*
Adam G. Hinds	*Berkshire, Hampshire, Franklin and Hampden*	*1/30/2019*
Paul R. Feeney	*Bristol and Norfolk*	*1/30/2019*
Cindy F. Friedman	*Fourth Middlesex*	*1/31/2019*
Sal N. DiDomenico	*Middlesex and Suffolk*	*1/31/2019*
Brendan P. Crighton	*Third Essex*	*1/31/2019*
Daniel J. Hunt	*13th Suffolk*	*1/31/2019*
James Arciero	*2nd Middlesex*	*1/31/2019*
Elizabeth A. Malia	*11th Suffolk*	*2/1/2019*
Eric P. Lesser	*First Hampden and Hampshire*	*2/1/2019*
Sean Garballey	*23rd Middlesex*	*2/1/2019*
Lori A. Ehrlich	*8th Essex*	*2/1/2019*
Carlos González	*10th Hampden*	*2/1/2019*
John H. Rogers	*12th Norfolk*	*2/1/2019*
James K. Hawkins	*2nd Bristol*	*2/1/2019*
Jon Santiago	*9th Suffolk*	*2/1/2019*
Joan B. Lovely	*Second Essex*	*2/19/2019*
Daniel M. Donahue	*16th Worcester*	*7/31/2019*

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By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1401) of James B. Eldridge, Ruth B. Balser, Liz Miranda, Nika C. Elugardo and other members of the General Court for legislation to protect the civil rights and safety of all Massachusetts residents. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

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

An Act to protect the civil rights and safety of all Massachusetts residents.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. This act shall be known and may be cited as the "Safe Communities Act"

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

Section 63. Updates to Law Enforcement Procedures

(a) Definitions

As used in this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

"Law enforcement agency", any state, municipal, college or university police department, sheriff's department, correctional facility, prosecutorial office, court, probation office, or

program of one or more of the foregoing entities, or any other non-federal entity in the commonwealth charged with the enforcement of laws or the custody of detained persons.

"Immigration enforcement", any and all efforts to investigate, enforce, or assist in investigating or enforcing any federal immigration law. Such purposes do not include verification of an applicant's eligibility for state or federal programs or services.

"United States Department of Homeland Security" or "DHS", the United States Department of Homeland Security and its component agencies, including Immigration and Customs Enforcement, the former Immigration and Naturalization Service, Customs and Border Protection, and any other federal agency charged with enforcing immigration laws.

(b) Community relations with law enforcement agencies

Notwithstanding any general or special law to the contrary, no officer or employee of a law enforcement agency, while acting under color of law, shall question persons, including victims and witnesses of crimes, about their immigration status unless state or federal law requires the inquiry, provided that judges and magistrates may make such inquiries as are necessary to adjudicate matters within their jurisdictions.

(c) Due process protections

Notwithstanding any general or special law to the contrary, an interview, including any informal questioning, between an agent of the United States Department of Homeland Security or state or local law enforcement agent and a person in the custody of a law enforcement agency conducted for immigration enforcement purposes shall take place only if the person in custody gives informed consent by signing a written consent form provided by the law enforcement

agency. The consent form shall explain that: (i) the interview is for immigration enforcement or deportation purposes; (ii) any information provided at the interview can be used against the person; (iii) the person may decline to sign any documents that are presented during the interview; and (iv) the person may choose to decline the interview or to be interviewed only with an attorney present, at the person's own expense. The consent form shall provide a checkbox or other means to indicate if an interview has taken place, and if so, if an attorney was present. The consent form shall be available in English and other languages commonly spoken in Massachusetts. The law enforcement agency shall make best efforts to provide a consent form that is in a language that the person understands, and to provide oral interpretation if needed, in order to obtain the person's informed consent for the interview. The office of the attorney general shall prepare the consent form and make it available to law enforcement agencies, and may work with interested not-for-profit organizations to prepare translations of the form.

Any and all records relating to the granting of these interviews or questioning shall be public records as defined in paragraph 26 of section 7 of chapter 4, provided that names, addresses, phone numbers and other personal identifying information shall not be a public record. These records include the signed consent forms obtained before the interviews, and information about whether the interview or questioning was conducted in the presence of an attorney.

(d) The preceding subsections (b) and (c) shall not apply to interviews or questioning of persons who are held in Massachusetts correctional facilities under an Inter-Governmental Service Agreement with the United States Department of Homeland Security, provided, however, that persons who are booked into a correctional facility under such an agreement shall be advised at the booking that the person: (i) has the right to seek legal counsel from an

immigration attorney at their own expense; (ii) may choose to decline to speak with a DHS agent or to speak with the DHS agent only with an attorney present; and (iii) may decline to sign any documents presented by a DHS agent.

(e) Guidelines for reporting release information

Notwithstanding any general or special law to the contrary, no officer or employee of a law enforcement agency shall notify the United States Department of Homeland Security, including in response to a request on federal form I-247A or I-247-N or any other formal or informal request, about the pending or imminent release, from state or local custody, of a person who is being released for any reason other than the end of a sentence of incarceration for a criminal conviction; provided, however, that nothing in this section shall prohibit or restrain any state or local agency from sending to, or receiving from, any local, state, or federal agency, information regarding citizenship or immigration status.

If a law enforcement agency receives a request for notification from the United States Department of Homeland Security regarding a person in its custody, including a request for notification under to federal form I-247A or I-247N, the law enforcement agency shall provide the person with a copy of the form and copies of any other documentation pertaining to the person's case that is presented to the law enforcement agency by the United States Department of Homeland Security.

(f) Implementation and training

Notwithstanding any general or special law to the contrary, all law enforcement agencies in the commonwealth shall, within 12 months of passage of this act, incorporate information and guidance regarding this section into their regular introductory and in-service training programs.

An individual may file a complaint for a violation of this section with the corresponding department or agency and with the attorney general's civil rights division, which shall compile an annual report summarizing the complaints and may investigate where appropriate. If a law enforcement agency receives a complaint or report about a violation of this section, the agency shall investigate and take appropriate disciplinary or other action with respect to the relevant officer or officers. A complaint and the annual report made under this subsection shall be public records as defined in paragraph 26 of section 7 of chapter 4, provided that personal identifying information shall not be a public record.

SECTION 3. Chapter 126 of the General Laws is hereby amended by inserting after section 39 the following section:-

Section 40. Notwithstanding any general or special law to the contrary, no officer or employee of the department of corrections, the state police, any sheriff's department, or any city or town police department shall perform the functions of an immigration officer, whether pursuant to 8 U.S.C. section 1357(g) or any other law, regulation, or policy, whether formal or informal. Any agreements in existence at the time of the passage of the law that are inconsistent with this section are null and void. Any entity of the commonwealth or any political subdivision thereof that is a party to such an agreement on the date of the passage of this act shall, within 90 days, inform the other party or parties that the contract is null and void under Massachusetts law. Nothing in this section shall prohibit the department of correction or a house of correction from entering into an Inter-Governmental Service Agreement with the United States Department of Homeland Security in which persons in Immigration and Customs Enforcement custody are housed at the house of correction and the United States Department of Homeland Security pays a daily fee for each person detained there.